Minnesota State Library,
St. Paul, Minn.

SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1920.

No. 239.

UNITED MINE WORKERS OF AMERICA, ET AL.,
PLAINTIFFS IN ERROR,
vs.
CORONADO COAL COMPANY, ET AL., DEFENDANTS
IN ERROR.

IN ERROR TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT.

INDEX.

	Original.	Print.
Caption to Transcript from U. S. Circuit Court of Appeals	1	1
Citation and Waiver of Service	1	1
Writ of Error and Clerk's Return	2	2
Caption to Transcript from U. S. District Court	4	4
Complaint	5	5
Itemized Damages to Hartford Coal Co., et al	12	10
Bond on Attachment	18	15
Writ of Attachment issued September 1, 1914, and Marshal's Return.	20	15
Writ of Garnishment issued September 1, 1914, and Marshal's Return.	22	16
Writ of Attachment issued September 1, 1914, and Marshal's Return.	24	17
Summons issued September 1, 1914, and Marshal's Return	26	19
Writ of Attachment issued September 2, 1914, and Marshal's Return.	33	23

	Original.	Print.
Writ of Attachment issued September 4, 1914, and Marshal's Return.	36	25
Amendment to Complaint	38	26
Summons issued September 16, 1914, and Marshal's Return	40	28
Petition of George Westwood, et al., for Leave to Intervene, etc.	45	31
Hearing, October 5, 1914, on Petition of George Westwood, et al., for Leave to Intervene, etc	49	33
Hearing, October 17, 1914, on Petition of George Westwood, et al., for Leave to Intervene, etc	50	34
Writ of Attachment issued November 7, 1914, and Marshal's Return.	51	34
Writ of Attachment issued November 10, 1914, and Marshal's Return.	53	35
Writ of Attachment issued November 11, 1914, and Marshal's Return.	55	36
Writ of Attachment issued November 12, 1914, and Marshal's Return.	57	37
Summons issued November 16, 1914, and Marshal's Return	59	38
Writ of Attachment issued November 20, 1914, and Marshal's Return.	61	39
Writ of Attachment issued December 1, 1914, and Marshal's Return.	63	40
Order, December 3, 1914, releasing certain Funds from Garnishment.	65	41
Answer of Sebastian County Bank, as Garnishee	66	41
Answer of Fred Gentry, as Garnishee	68	42
Answer of J. W. McGehee, as Garnishee	69	43
Answer of Charles E. Osborn, as Garnishee	70	44
Answer of German American Bank, as Garnishee	71	45
Answer of Bank of Clarksville, as Garnishee	72	46
Answer of First National Bank, as Garnishee	73	47
Answer of John R. McBride, as Garnishee	74	47
Answer of C. C. Calvert, as Garnishee	75	48
Answer of Huntington State Bank, as Garnishee	76	48
Answer of Branner Coal Company, as Garnishee	77	49
Answer of American National Bank, as Garnishee	78	49
Answer of Midland State Bank, as Garnishee	80	50
Answer of Citizens Bank of Coal Hill, as Garnishee	81	50
Record Entry of the filing of Separate Answers of American National Bank, et al., as Garnishees	82	51
Record Entry of the filing of Separate Answers of Sebastian County Bank, et al., as Garnishees	83	51
Answer of Bank of Hartford, as Garnishee	84	52
Record Entry of the filing of Answer of Bank of Hartford, as Garnishee	87	54
Answer of C. R. Owsley, as Garnishee	88	54
Record Entry of the filing of Answer of C. R. Owsley, as Garnishee.	89	55
Answer of Receivers of Bolen-Darnall Coal Company, as Garnishee.	90	55
Record Entry of the filing of Answer of Receivers of Bolen-Darnall Coal Company, as Garnishee	91	55
Answer of George Henry, as Garnishee	92	56
Record Entry of the filing of Answer of George Henry, as Garnishee.	93	56
Stipulation extending Time to January 16, 1915, to file Answer, Demurrer or Motion, etc	94	56
Motion of Defendants to Dismiss	95	57
Motion to Quash Service of Summons on United Mine Workers of America	96	58
Motion to Quash Service of Summons on Local Union, No. 340	98	59
Motion to Quash Service of Summons on Local Union, No. 374	99	60
Motion to Quash Service of Summons on Local Union, No. 560	100	60
Motion to Quash Service of Summons on Local Union, No. 586	101	61
Motion to Quash Service of Summons on Local Union, No. 1130	102	62

	Original.	Print.
Motion to Quash Service of Summons on Local Union, No. 1526	103	63
Motion to Quash Service of Summons on Local Union, No. 1530	104	63
Motion to Quash Service of Summons on Local Union, No. 1565	105	64
Motion to Quash Service of Summons on Local Union, No. 1810	106	65
Motion to Quash Service of Summons on Local Union, No. 1814	107	66
Motion to Quash Service of Summons on Local Union, No. 1824	108	66
Motion to Quash Service of Summons on Local Union, No. 1912	109	67
Motion to Quash Service of Summons on Local Union, No. 1934	110	68
Motion to Quash Service of Summons on Local Union, No. 2053	111	69
Motion to Quash Service of Summons on Local Union, No. 2160	112	69
Motion to Quash Service of Summons on Local Union, No. 2316	113	70
Motion to Quash Service of Summons on Local Union, No. 2766	114	71
Motion to Quash Service of Summons on Local Union, No. 2769	115	72
Motion to Quash Service of Summons on Local Union, No. 2770	116	72
Motion to Quash Service of Summons on Local Union, No. 2841	117	73
Motion to Quash Service of Summons on Local Union, No. 2880	118	74
Record Entry of the filing of Separate Motions to Quash Service of Summons on United Mine Workers and others	119	75
Answer of First National Bank of Clarksville, as Garnishee	123	77
Order, May 22, 1915, sustaining Separate Motions to Quash Service of Summons on Local Union, No. 560, and others, and overruling Separate Motions to quash Service of Summons on United Mine Workers and others and exceptions thereto	124	78
Demurrer of Defendant, Joe Kervillas, et al., to Complaint	127	80
Record Entry of the filing of Demurrer of Defendant, Joe Kervillas, et al., to Complaint	130	82
Summons issued May 24, 1915, and Marshal's Return	131	82
Order of Submission of Demurrer of Joe Kervillas, et al., to Complaint	135	85
Motion to Quash Service of Summons on Fred W. Holt	136	86
Record Entry of the filing of Motion to Quash Service of Summons on Fred W. Holt	137	86
Motion to Quash Service of Summons on United Mine Workers of America	138	86
Order, June 15, 1915, overruling Motion to Quash Service of Summons on United Mine Workers of America, and Exceptions thereto.	141	88
Demurrer of Local Union, No. 340, to Complaint	142	88
Order overruling Demurrer of Local Union, No. 340, and Exceptions thereto	143	89
Demurrer of Local Union, No. 1130, to Complaint	144	89
Order overruling Demurrer of Local Union, No. 1130, and Exceptions thereto	145	89
Demurrer of Local Union, No. 1561, to Complaint	146	90
Order overruling Demurrer of Local Union, No. 1561, and Exceptions thereto	147	90
Motion to Quash Service of Summons on Local Union, No. 560	148	90
Motion to Quash Service of Summons on Local Union, No. 586	149	91
Motion to Quash Service of Summons on Local Union, No. 1526	150	92
Motion to Quash Service of Summons on Local Union, No. 1530	151	92
Motion to Quash Service of Summons on Local Union, No. 1810	152	93
Motion to Quash Service of Summons on Local Union, No. 1814	153	94
Motion to Quash Service of Summons on Local Union, No. 1842	154	95
Motion to Quash Service of Summons on Local Union, No. 1912	155	95
Motion to Quash Service of Summons on Local Union, No. 1934	156	96

	Original.	Print.
Motion to Quash Service of Summons on Local Union, No. 2053	157	97
Motion to Quash Service of Summons on Local Union, No. 2110	158	98
Motion to Quash Service of Summons on Local Union, No. 2160	159	98
Motion to Quash Service of Summons on Local Union, No. 2027	160	99
Motion to Quash Service of Summons on Local Union, No. 2494	161	100
Motion to Quash Service of Summons on Local Union, No. 2766	162	101
Motion to Quash Service of Summons on Local Union, No. 2769	163	101
Motion to Quash Service of Summons on Local Union, No. 2770	164	102
Motion to Quash Service of Summons on Local Union, No. 2772	165	103
Motion to Quash Service of Summons on Local Union, No. 2880	166	103
Motion to Quash Service of Summons on Local Union, No. 2841	167	104
Order, June 15, 1915, overruling Separate Motions of Local Union, No. 560, and others to Quash Service of Summons and Exceptions thereto	168	105
Demurrer of United Mine Workers of America and others to Complaint	173	108
Record Entry of the filing of Demurrer of United Mine Workers of America and others to Complaint	177	110
Order, July 6, 1915, sustaining Demurrer of United Mine Workers of America and others to Complaint, and granting Plaintiffs Leave to file Amended Complaint	178	111
Amended Complaint, filed July 6, 1915	179	111
Itemized Damages to Hartford Coal Co., et al	193	121
Notice of Application for Leave to file Second Amended Complaint.	199	126
Order granting Leave to file Second Amended Complaint and Exceptions thereto	200	126
Second Amended Complaint, filed July 13, 1915	201	127
Itemized Damages to Hartford Coal Co., et al	225	144
Demurrer of United Mine Workers of America and others to Second Amended Complaint	230	148
Demurrer of P. R. Stewart, et al., to Second Amended Complaint.	234	151
Order of Submission of Demurrer of United Mine Workers of America and others to Second Amended Complaint	237	153
Order allowing Names of Joe Kervillas and other Defendants to be attached as a part of second Amended Complaint	238	153
Motion to Discharge Attachments and Garnishments served upon the American National Bank of Fort Smith, Arkansas, and others.	239	154
Intervention of District, No. 21	244	157
Record Entry of the filing of Motion to Discharge Attachments, etc., and Intervention of District, No. 21	247	159
Order, October 20, 1915, sustaining Demurrers to Second Amended Complaint and dismissing cause, and Exceptions thereto	248	159
Order, October 25, 1915, discharging Attachments and Garnishments against the American National Bank of Fort Smith, Arkansas, and others, etc	250	160
Summons issued September 23, 1916, and Marshal's Return	253	162
Motion to Vacate Decree of District Court, sustaining Demurrers to Complaint and requiring Defendants to plead within 10 days.	255	162
Mandate of U. S. Circuit Court of Appeals and Order, February 7, 1917, entered thereon, vacating Decree of Dismissal of the District Court and overruling Demurrers	256	163
Motion of United Mine Workers of America, et al., to Strike out certain Parts of Plaintiffs' Second Amended Complaint	263	168

	Original.	Print.
Record Entry of the filing of Motion of United Mine Workers of America, et al., to Strike out, etc	270	173
Motion to P. R. Stewart, et al., to Strike out certain Parts of Plaintiffs' Second Amended Complaint	271	173
Record Entry of the filing of Motion of P. R. Stewart, et al., to Strike out, etc	279	178
Third Amended Complaint, filed February 27, 1917	280	179
Itemized Damages to Hartford Coal Co., et al	307	198
Record Entry of the filing of Third Amended Complaint	313	202
Motion to Amend Caption to Third Amended Complaint	314	203
Order, February 28, 1917, allowing Amendment to Caption to Third Amended Complaint	315	203
Motion for Leave to Amend Marshal's Return on Summons issued to District, No. 21, of the United Mine Workers of America	316	203
Order, February 28, 1917, allowing Amendment to Marshal's Return on Summons issued to District No. 21, of the United Mine Workers of America	317	204
Motion for the Issuance of Summons to District, No. 21, of the United Mine Workers of America	318	204
Order for an Additional Summons to District, No. 21, of the United Mine Workers of America	320	206
Summons issued February 28, 1917, and Marshal's Return	321	206
Demurrer of United Mine Workers of America, et al., to Third Amended Complaint	323	207
Demurrer of P. R. Stewart, et al., to Third Amended Complaint.	326	209
Record Entry of the filing of Separate Demurrers of United Mine Workers of America, et al., and P. R. Stewart, et al., to Third Amended Complaint	328	210
Motion of District, No. 21, of the United Mine Workers of America, to Quash Return of Service of Summons	329	211
Record Entry of the filing of Motion of District, No. 21, of the United Mine Workers of America, to Quash Return of Service of Summons	330	212
Motion for Judgment by Default against United Mine Workers of America, District, No. 21	331	212
Motion to Quash Service of Summons on District, No. 21, and Motion for Judgment by Default against District, No. 21, withdrawn; Order of Submission of Motion of United Mine Workers of America, et al., to Strike out certain Parts of Third Amended Complaint, etc.	333	214
Motion of United Mine Workers of America, et al., to Strike out certain Parts of Third Amended Complaint	334	214
Motion to Require Plaintiffs to make Complaint more Definite and Certain	338	217
Order, May 10, 1917, overruling Motion of United Mine Workers of America, et al., to Strike out certain Parts of Third Amended Complaint and Exceptions thereto	347	223
Order sustaining in Part and overruling in Part Defendants' Motion to require Plaintiffs to make Complaint more Definite and Certain.	348	224
Amendments to Paragraphs 12 and 21 of the Amended Complaint.	349	224
Record Entry of the filing of Amendments to Paragraphs 12 and 21 of the Amended Complaint	356	229
Motion to make Complaint and Amendments thereto more Definite and Certain	357	229

	Original.	Print.
Record Entry of the filing of Motion to make Complaint and Amendments thereto more Definite and Certain	361	231
Order sustaining in Part and overruling in Part Motion to make Complaint and Amendments thereto more Definite and Certain.	362	232
Amendment to Paragraph 21 of the Complaint	363	232
Record Entry of the filing of Amendment to Paragraph 21 of the Complaint	372	238
Separate Answer of the United Mine Workers of America	373	238
Separate Answer of District, No. 21, of the United Mine Workers of America	414	265
Separate Answer of each Local Union	418	268
Separate Answer of Defendants, P. R. Stewart, et al	419	268
Record Entry of the filing of Answers to Third Amended Complaint.	421	269
Petition filed September 6, 1917, for the Production of certain Documents and Papers at the Trial of the Case	423	270
Amended Petition for the Production of certain Documents and Papers at the Trial of the Case	435	278
Answer to Amended Petition for the Production of certain Documents and Papers at the Trial of the Case	447	286
Exhibit A, Affidavit of Frank J. Hayes as to the Destruction of all Reports of the International Organizers for the Year 1914	453	291
Order of submission of Amended Petition to produce Documents and Papers at Trial, etc	454	291
Order overruling Amended Petition to Produce, etc	455	292
Petition filed September 20, 1917, to require Defendants to Produce certain Documents at the Trial	456	292
Response to Petition to require Defendants to Produce, etc	466	299
Order of Submission of Motion to Produce	468	301
Order requiring Defendants to Produce certain Documents and Papers at the Trial	469	301
Petition filed September 28, 1917, to Produce certain Documents and Papers at the Trial	472	303
Response to Petition to Produce certain Documents and Papers	479	308
Petition filed September 28, 1917, to Produce certain Documents and Papers at the Trial	481	309
Response to Petition to Produce certain Documents and Papers	485	312
Order, September 28, 1917, requiring Defendants to Produce certain Documents and Papers at the Trial	487	313
Order overruling Motion to Postpone Trial	490	314
Stipulation for Postponement of Trial	491	315
Order, October 1, 1917, granting Continuance	492	315
Petition filed October 13, 1917, to Produce certain Expense Accounts, Papers and Documents at the Trial	493	315
Order, October 13, 1917, requiring Defendants to Produce certain Documents and Papers	505	324
Jury Impaneled; Trial, October 23, 1917	508	326
Protest of United Mine Workers of America, et al., against the Production of certain Documents and Papers	510	327
Protest of District, No. 21, of the United Mine Workers of America against the Production of certain Documents and Papers	516	331
Protest of Local Unions against the Production of certain Documents and Papers	518	333
Trial, October 24, 1917	520	334
Trial, October 25, 1917,	521	334

	Original.	Print.
Trial, October 26, 1917	522	334
Trial, October 27, 1917	523	335
Motion of Defendants to produce certain Books and Papers, filed October 29, 1917	524	335
Exhibit A, Request of Counsel for Defendants served on Counsel for Plaintiffs to Produce, etc	528	338
Order, October 29, 1917, to Produce certain Books, etc	530	339
Trial, October 29, 1917	531	340
Trial, October 30, 1917	532	340
Trial, October 31, 1917	533	340
Trial, November 1, 1917	534	340
Trial, November 2, 1917	535	346
Response to Defendants' Motion to Produce certain Books, etc	536	341
Affidavit of C. H. Finley	536	341
Stipulation as to Testimony of Ed Parrish and Eva Trannell	538	342
Trial, November 3, 1917	539	343
Trial, November 5, 1917	540	343
Trial, November 6, 1917	541	343
Trial, November 7, 1917	542	344
Trial, November 8, 1917	543	344
Trial, November 9, 1917	544	344
Trial, November 10, 1917	545	344
Trial, November 12, 1917	546	345
Trial, November 13, 1917	547	345
Defendants' Motion to Strike out certain Testimony	548	346
Motion of Defendants, United Mine Workers of America, et al., for a Directed Verdict	552	348
Trial, November 14, 1917	553	349
Trial, November 15, 1917	554	349
Trial, November 16, 1917	555	349
Trial, November 17, 1917	556	349
Motion of Defendants, United Mine Workers of America, et al., for for a Directed Verdict	557	350
Motion of Defendants, P. R. Stewart, et al., for a Directed Verdict.	558	351
Plaintiffs' Motion to Strike out certain Questions and Answers of Witness, John P. White	560	352
Trial, November 19, 1917	561	352
Trial, November 20, 1917	563	353
Trial, November 21, 1917	564	354
Verdict and Judgment, November 22, 1917	565	354
Motion for Allowance of Interest on Judgment	568	356
Motion of Plaintiffs to Tax a Reasonable Attorneys' Fee	570	357
Motion of Defendants, United Mine Workers, et al., for a Judgment notwithstanding the Verdict	571	358
Motion of Defendants, P. R. Stewart, et al., for a Judgment notwithstanding the Verdict	574	360
Record Entry of the filing of Motions for Judgment notwithstanding the Verdict	576	361
Order continuing Hearing of certain Motions	577	362
Order overruling Motions for Judgment notwithstanding the Verdict.	578	362
Order granting further Stay of Proceedings	579	363
Bill of Exceptions	580	363
Caption	580	363

	Original.	Print.
Protest of United Mine Workers of America, et al., against the Production to certain Documents and Papers overruled and Exceptions thereto, Recital of	581	364
Testimony for Plaintiffs	582	364
William Green, Deposition of	582	365
Exhibits	620	390
2, Agreement between Operators of the Central Competitive Coal Fields and the United Mine Workers of America, January 28, 1898	621	391
4, Excerpt of Contract between the Union and Operators, known as the Joint Interstate Agreement for Districts 14, 21 and 25, May 29, 1912, expiring July 31, 1814	628	396
5, Excerpt of Contract entitled, "Illinois State Agreement," expiring March 31, 1914, District No. 12	630	397
6, Excerpt of Agreement between Illinois Coal Operators Association, et al., and the United Mine Workers of America, District, No. 12, expiring March 31, 1914	631	398
7, Excerpt of Contract between United Mine Workers of America and Northern Wyoming Coal Operators Association for Mines in Wyoming, expiring September 1, 1914.	632	399
8, Excerpt of Agreement between United Mine Workers of America and Washington Coal Operators Association, September 1, 1912	633	399
9, Excerpt of Agreement between Montana Coal Operators Association and the United Mine Workers of America, District, No. 27, Montana, October 1, 1912	634	400
10, Excerpt of Agreement entitled, "Joint Interstate Agreement and Contract for District, No. 14," May 29, 1912	636	401
11, Excerpt of Agreement between the Kanawha Coal Operators and the United Mine Workers of America, July 11, 1914	637	402
12, Excerpt of Agreement entitled, "United Mine Workers of America, District 6, Ohio, for Scale Year, April 1, 1914, to March 31, 1916"	638	403
13, Excerpt of Agreement between The Vancouver Nanaimo Coal Mining Co. and the United Mine Workers of America, August 21, 1913	641	405
14, Excerpt of Agreement between the Pittsburg District Coal Operators and the United Mine Workers of America, District, No. 5, for Scale Term, April 1, 1914, to March 31, 1916	642	406
15, Excerpt of Contract entitled, "Joint Interstate Agreement and Contract for District, No. 21," May 29, 1912.	643	407
16, Excerpt of Contract entitled, "Joint Interstate Agreement and Contract for District, No. 25," May 29, 1912.	644	407
17, Excerpt of Agreement and Scale of Wages between the Texas and Pacific Coal Co., et al., and the United Mine Workers of America, District, No. 21, August 1, 1914, to September 1, 1916	646	408
18, Excerpt of Agreement entitled, "Northern Agreement and Constitution, District, No. 22, United Mine Workers of America, 1914"	647	409

	Original.	Print.
19, Excerpt of Agreement entitled, "Joint Interstate Agreement and Contracts for Districts 14, 21 and 25," May 29, 1912	648	410
20, Agreements between The Block Coal Operators and the United Mine Workers of America, District, No. 8, April 1, 1912, Recital of	650	411
21, Michigan Mining Scale, 1912-14, between Michigan Coal Operators and the United Mine Workers of America, District, No. 24, Recital of	650	411
22, Agreement between Western Kentucky Coal Operators Association and the United Mine Workers of America, District, No. 23, April 1, 1912, Recital of	650	412
23, Michigan Mining Scale, 1914-16, between Michigan Coal Operators and the United Mine Workers of America, District, No. 24, May 29, 1914, Recital of	651	412
24, Agreement between Western Kentucky Coal Operators Association and the United Mine Workers of America, District, No. 23, April 1, 1914, Recital of	651	412
25, Book of Scale Agreements between United Mine Workers of America, District, No. 2, and the Bituminous Operators of Central Pennsylvania, 1899 to 1914, inclusive, Recital of	651	412
26, Agreement between the Kanawha Coal Operators and the United Mine Workers of America, April 1, 1910, Recital of	651	412
27, Agreements between The Block Coal Operators and the United Mine Workers of America, District, No. 8, April 1, 1914, Recital of	652	413
28, Contract between the Indiana Bituminous Coal Operators Association and the United Mine Workers of America, District, No. 11, May 31, 1912, Excerpt of	652	413
29-A, Proceedings of the 11th, 12th, 13th and 14th Annual Conventions and the Special Convention of the United Mine Workers of America, Recital of	654	414
29-B to 29-R, inclusive, Proceedings of the Conventions of the United Mine Workers of America, 1904 to 1916, inclusive, Recital of	655	415
30-A to 30-H, inclusive, Proceedings of the Joint Conferences of Miners and Operators of the Central Competitive Districts, 1901 to 1916, inclusive, Recital of	656	415
31-A to 31-X, inclusive, 24 Volumes of the United Mine Workers' Journal, April 14, 1892, to April 26, 1917, inclusive, Recital of	656	416
Defendants' Exhibits	660	418
1, Constitution of the International Union, United Mine Workers of America	660	418
Form of Transfer Card	694	443
2, Report of the Scale Committee to the Convention of the International Union, 1912	711	455
3, Miners' Demands made by the Convention of the United Mine Workers in 1914	714	458

	Original.	Print.
4, Letter, John P. White, President of the United Mine Workers of America, to the Representatives of the Operators and Miners of the Central Competitive District, January 9, 1912	717	460
5, Agreement between the Miners and Operators of the Central Competitive District, March 30, 1912	726	466
Exhibits	745	478
31-Y, 31-Z and 31-AA, 3 Additional Volumes of United Mine Workers' Journal, Recital of	745	478
John P. White, Deposition of	745	479
Letter, President, United Mine Workers of America, to Honorable Woodrow Wilson, March 3, 1917	766	493
Letter, President, to Honorable W. B. Wilson, November 4, 1914	771	496
Circular issued during the Birmingham Strike to Officers and members of Local Unions, United Mine Workers, for District, No. 20, August 19, 1908	774	498
Exhibits 31-BB and 31-CC, 2 Volumes of the United Mine Workers' Journal, Recital of	779	501
Excerpt of United Mine Workers' Journal, October 15, 1914.	785	505
Excerpt of Report of John P. White in the Convention Proceedings of the United Mine Workers Association, 1914	786	506
Excerpt of the Report of Secretary and Treasurer Wilson at the National Convention of the United Mine Workers of America, 1906	790	508
Excerpt of Address by John P. White to the Special Convention of the United Mine Workers of District, No. 21, May 18, 1914	796	512
Excerpt of President Lewis' Report in the Convention Proceedings for the year 1910	801	515
Excerpt of United Mine Workers' Journal of October 13, 1910.	806	518
Excerpt of John P. White's Report in the Proceedings of the Convention of the United Mine Workers for the Year, 1912.	810	521
Excerpt of Journal of the United Mine Workers of America of April 1, 1909	816	524
Excerpt of the Report of John Mitchell in the Convention Proceedings of the United Mine Workers of America for the Year, 1904	817	525
Excerpt of the Report of T. L. Lewis in the Convention Proceedings of the United Mine Workers of America for the Year, 1907	819	525
Excerpt of the Report of President Mitchell in the Convention Proceedings of the United Mine Workers of America for the Year, 1908	820	526
Excerpt of United Mine Workers' Journal, January 12, 1911.	821	526
Excerpt of the Report of Vice-President Hayes in the Convention Proceedings of the United Mine Workers of America for the Year, 1912	825	529
Excerpt of Vice-President, Hayes' Report in the Convention Proceedings for the Year, 1914	826	529
Excerpt of the Report of the Committee on Resolutions in the Convention Proceedings of the United Mine Workers of America for the Year, 1914, (Resolution, No. 115)	829	531

	Original.	Print.
Excerpt of the Report of the Committee on Resolutions in the Convention Proceedings of the United Mine Workers of America for the Year, 1902, (Resolution, No. 33)	838	538
Excerpt of the Convention Proceedings of the United Mine Workers of America for the Year, 1902, (Report of the Special Committee on Competitive Scale Districts)	843	541
Excerpt of the Convention Proceedings of the United Mine Workers of America for the Year, 1902, (Report of the Special Committee on Organization)	845	542
Excerpt of Statement by Mr. Mitchell in the Proceedings of of the Joint Conference of Coal Operators and Coal Miners for the Year, 1904	867	556
Excerpt of Statement by W. S. Bogle in the Proceedings of the Joint Conference of Coal Operators and Coal Miners for the Year, 1904	868	557
Excerpt of Statement by H. L. Chapmann in the Proceedings of the Joint Conference of Coal Operators and Coal Miners for the Year, 1904	869	557
Excerpt of Statements by Messrs. Robbins and Chapman in the Proceedings of the Joint Conference of Coal operators and Coal Miners for the Year, 1904	870	558
Excerpt of Statement by W. S. Bogle in the Proceedings of the Joint Conference of Coal Operators and Coal Miners for the Year, 1904	871	559
Excerpt of Statement by Mr. Chapman in the Proceedings of the Joint Conference of Coal Operators and Coal Miners for the Year, 1904	872	559
Excerpt of Statements by Messrs. Robbins and Bogle in the Proceedings of the Joint Conference of Coal Operators and Coal Miners for the Year, 1904	874	561
Excerpt of Statement by Mr. Robbins in the Proceedings of the Joint Conference of Coal Operators and Coal Miners for the Year, 1904	875	561
Excerpt of Statement by Mr. Chapman in the Proceedings of the Joint Conference of Coal Operators and Coal Miners for the Year, 1904	878	563
Excerpt of Statement by Mr. Chapman in the Proceedings of the Joint Conference of Coal Operators and Coal Miners for the Year, 1904	879	564
Proceedings of the Joint Conference of Coal Operators and Coal Miners for the Year, 1904, Recital of	880	565
Proceedings of the Joint Conference of Coal Operators and Coal Miners for the Year, 1904, Excerpt of	881	565
Excerpt of the Convention Proceedings of Miners for the Year, 1904, (Resolution, No. 7)	884	567
Excerpt of the Convention Proceedings of Miners for the Year, 1905	886	569
Excerpt of Statement by President Mitchell in the Joint Conference Proceedings of Miners and Operators for the Year, 1906	887	570
Excerpt of Statement by W. D. Wilson in the Joint Conference Proceedings of Miners and Operators for the Year, 1906.	889	571
Excerpt of Statement by Mr. Robbins in the Joint Conference Proceedings of Miners and Operators for the Year, 1906.	890	572

	Original.	Print.
Excerpt of Statement by Mr. Robbins in the Joint Conference Proceedings of Miners and Operators for the Year, 1906.	891	572
Excerpt of Statement by Mr. Penna in the Joint Conference Proceedings of Miners and Operators for the Year, 1906.	891	572
Excerpt of Statement by Mr. Chapman in the Joint Conference Proceedings of Miners and Operators for the Year, 1906.	893	573
Report of Scale Committee in the Convention Proceedings of Miners for the Year, 1906	894	574
Resolution, No. 42, adopted at the Convention of Miners for the Year, 1906	895	575
Excerpt of Statement by Mr. Green in the Proceedings of the Miners' Convention for the Year, 1907	897	576
Excerpt of the Proceedings of the Miners' Convention for Year, 1907	898	577
Excerpt of Statement by John H. Jones in the Joint Conference Proceedings for the Year, 1908	899	578
Excerpt of Statement by Francis Feehan in the Joint Conference Proceedings for the Year, 1908	901	579
Excerpt of Address by President Mitchell in the Proceedings of the Miners' Convention for the Year, 1908	902	580
Excerpt of Statement by Mr. Green in the Proceedings of the Miners' Convention of 1909	904	581
Excerpt of Statement by Mr. Hagerty in the Proceedings of the Miners' Convention of 1909	904	581
Excerpt of Statement by President Lewis in the Proceedings of the Miners' Convention of 1909	905	582
Excerpt of Statement by Mr. Farley in the Proceedings of the Miners' Convention of 1909	906	583
Excerpt of Statement by C. E. Maurer in the Proceedings of the Joint Convention of 1910	907	583
Excerpt of Statement by President Lewis in the Proceedings of the Joint Convention of 1910	913	587
Excerpt of Statement by President Lewis in the Proceedings of the Joint Convention of 1910	914	588
Excerpt of Statement by Mr. Green in the Proceedings of the Joint Convention of 1910	915	588
Excerpt of Statement by Mr. Maurer in the Proceedings of the Joint Convention of 1910	916	589
Excerpt of Statement by Mr. Penna in the Proceedings of the Joint Convention of 1910	918	590
Excerpt of Statement by Mr. Chapman in the Proceedings of the Joint Convention of 1910	919	591
Excerpt of Statement by Mr. Chapman in the Proceedings of the Joint Convention of 1910	920	592
Excerpt of Statement by Mr. Maurer in the Proceedings of Joint Convention of 1910	920	592
Excerpt of Statement by Mr. Zerbe in the Proceedings of the Joint Convention of 1910	921	593
Excerpt of Statement by Secretary Perry in the Proceedings of the Joint Convention of 1910	923	594
Excerpt of Statement by Mr. Chapman in the Proceedings of the Joint Convention of 1910	924	595
Excerpt of Statement by Mr. Green in the Proceedings of the Joint Convention of 1910	925	595

	Original.	Print.
Excerpt of United Mine Workers' Journal of July 7, 1910	926	596
Excerpt of Statement by Mr. Hayes in the Proceedings of the Joint Conference of Coal Operators and Miners for the Year, 1912	928	597
Operators' Proposition in the Proceedings of the Joint Conference of Coal Operators and Miners for the Year, 1912.	929	598
Excerpt of Statement by Mr. Field and Mr. Hayes in the Proceedings of the Joint Conference of Coal Operators and Miners for 1912	930	598
Excerpt of Statement by Mr. Maurer in the Proceedings of the Joint Conference of Coal Operators and Miners for the Year, 1912	932	600
Excerpt of Statement by Mr. Penna in the Proceedings of the Joint Conference of Coal Operators and Miners for the Year, 1912	935	602
Excerpt of the Report of E. S. McCullough in the Proceedings of the Miners' Convention of 1910	939	605
Excerpt of Statement by Mr. Lewis in the Proceedings of the Joint Convention of 1912	940	605
Excerpt of Statement by Mr. Penna in the Proceedings of the Joint Convention of 1912	945	608
Excerpt of Statement by Mr. Penna in the Proceedings of the Joint Convention of 1912	946	608
Excerpt of Statement by Mr. Maurer in the Proceedings of the Joint Convention of 1912	951	611
Excerpt of Statement by Mr. White in the Proceedings of the Joint Convention of 1912	953	612
Excerpt of Statement by Mr. Walker in the Proceedings of the Joint Convention of 1912	954	613
Excerpt of Statement by Mr. Chapman in the Proceedings of the Joint Convention of 1912	955	613
Excerpt of the Report of Mr. White in the Proceedings of the Miners' Convention of 1912	957	614
Excerpt of Miners' Journal, September 26, 1912	958	615
Excerpt of the Report of the Treasurer in the Proceedings of the Miners' Convention of 1914	960	616
Excerpt of Statement by Mr. Maurer, in the Proceedings of the Joint Convention for the year 1904	961	616
Excerpt of Statement by Mr. Maurer in the Proceedings of the Joint Convention for the year 1904	964	618
Excerpt of Statement by Mr. Jackson in the Proceedings of the Miners' Convention for the year 1914	965	618
Excerpt of Statement by President White in the Proceedings of the Miners' Convention of 1914	967	620
Excerpt of Address by President White in the Proceedings of the Special Convention of United Mine Workers of America, District, No. 21, May 18, 1914	969	620
Colloquy between Court and Counsel on Motion to Strike out certain Testimony in the Record	1003	644
Motion to Strike out certain Testimony, denied	1014	652
William Green, recalled, Deposition of	1016	653
Franklin Bache	1019	656
Plaintiffs' Exhibits	1081	698

	Original.	Print.
35, Letter, Franklin Bache to President Woodrow Wilson, Recital of	1081	699
36, Letter, W. B. Wilson to Franklin Bache, Recital of	1086	702
37, Letter, W. B. Wilson to John P. White, Recital of	1086	702
38, Letter to Franklin Bache, March 22, 1914	1109	717
39, Letter from Franklin Bache, May, 1914, Recital of	1115	722
40, Letter to U. S. Marshal, Western District of Arkansas, May 23, 1914, Recital of	1122	726
41, Letter to John S. Cameron, May 23, 1914, Recital of	1122	726
Defendants' Exhibit 1, Certified Copy of Certificate of Incorporation of the Kali-Inla Coal Co. in the State of West Virginia, September 26, 1898	1129	731
Defendants' Exhibit, Certified Copy of Certificate of Incorporation of the Mammoth Vein Coal Mining Co. in the State of West Virginia, October 19, 1905	1154	750
Defendants' Motion to Produce certain Books, etc	1162	755
Exhibit A, Request for the Production of certain Books and Papers	1166	757
Testimony for Plaintiffs	1173	762
Franklin Bache, recalled	1173	762
Defendants' Exhibits	1179	767
3, Lease between the Cherokee Construction Co. and the Prairie Creek Coal Co., July 1, 1909	1179	767
4, Mortgage with Power of Sale, Mammoth Vein Royalty Co. to H. C. Parmelee, Trustee, July 3, 1914	1219	794
5, Articles of Incorporation of the Mammoth Vein Royalty Co., of the State of Arkansas, October 15, 1904	1233	804
6, Slip of Paper containing Names of Bache-Denman Coal Co. and Bache & Denman Coal Co	1240	810
7, Pittsburg Interstate Agreement between the Southwestern Coal Operators Association and the United Mine Workers of America, Districts 14, 21 and 24, July 27, 1903	1255	820
8, Joint Interstate Agreement between the Southwestern Coal Operators Association and the United Mine Workers of America, Districts 14, 21 and 25, August 19, 1904	1282	840
Agreement on Scale for District, No. 1	1296	850
9, Joint Interstate Agreement between the Southwestern Coal Operators Association and the United Mine Workers of America, District, No. 21, adopted at Kansas City, Missouri, June 16, 1906	1319	867
10, Joint Interstate Agreement between the Southwestern Coal Operators Association and the United Mine Workers of Missouri, Kansas and Oklahoma, May 25, 1908	1349	889
Contract for District No. 21, of United Mine Workers of America, adopted at Kansas City, Mo., May 25, 1908.	1363	900
11, Agreement between Mammoth Vein Coal Co., et al., and the United Mine Workers of America, August 10, 1910	1383	914
12, Joint Interstate Agreement between the Southwestern Interstate Coal Operators Association and the United Mine Workers of America, District, No. 21, adopted at Kansas City, Missouri, May 29, 1912	1387	918

	Original.	Print.
13, Joint Interstate Agreement and Contracts between the Southwestern Interstate Coal Operators Association and the United Mine Workers of Missouri, Kansas, Arkansas and Oklahoma, adopted September 19, 1910	1431	949
Contract between the Southwestern Interstate Coal Operators Association and the United Mine Workers of America, District 14, September 19, 1910	1447	961
Contract between the Southwestern Interstate Coal Operators Association and the United Mine Workers of America, District 21, September 19, 1910	1469	976
Contract between the Southwestern Interstate Coal Operators Association and the United Mine Workers of America, District 25, September 19, 1910	1494	994
14, Certificate of Incorporation of the Coronado Coal Co., Recital of	1549	1033
Excerpt of the Report of Vice-President Lewis in the Minutes of the Annual Convention of the United Mine Workers for 1903	1564	1044
Excerpt of the Report of President Mitchell in the Minutes of the Annual Convention of the United Mine Workers for 1904	1565	1045
Excerpt of the Report of President Mitchell in the Minutes of the Annual Convention of the United Mine Workers for 1904	1566	1045
Excerpt of the Report of President Mitchell in the Minutes of the Annual Convention of the United Mine Workers for 1904	1567	1046
Excerpt of the Report of President Mitchell in the Minutes of the Annual Convention of the United Mine Workers for 1906	1569	1047
Excerpt of the Report of the Committee on Officers' Reports, United Mine Workers Convention of 1907	1571	1049
Excerpt of the Report of Vice-President Lewis in the Minutes of the Miners' Convention for 1908	1573	1050
Excerpt of the Report of the Scale Committee in the Proceedings of the reconvened Miners' Convention	1576	1052
Excerpt of the Annual Report of President Lewis in the Convention Proceedings of the United Mine Workers of America for 1910	1577	1053
Excerpt of the Annual Report of President Lewis in the Convention Proceedings of the United Mine Workers of America for 1910	1581	1056
Excerpt of the Annual Report of President Lewis in the Convention Proceedings of the United Mine Workers of America for 1911	1583	1057
Excerpt of Convention Proceedings of the United Mine Workers of America for 1911, (Resolution, No. 110, and Adoption thereof)	1585	1059
Excerpt of the Annual Report of Vice-President Hayes in the Convention Proceedings of the United Mine Workers of America for 1911	1587	1060
Excerpt of the Report of John P. White in the Convention Proceedings of the United Mine Workers of America for 1912	1589	1062

	Original.	Print.
Excerpt of the Report of Frank J. Hayes in the Convention Proceedings of the United Mine Workers of America for 1912	1590	1062
Excerpt of the Report of the Committee on Rules in the Proceedings of the Joint Conference of the Miners and Operators of the Central Competitive Field, 1904	1593	1064
Excerpt of the Report of the Credentials Committee in the Proceedings of the Joint Conference of the Miners and Operators of the Central Competitive Field, 1904	1594	1065
Excerpt of the Miners' Proposed Scale	1595	1066
Excerpt of Statement of John Mitchell in the Proceedings of the Joint Conference of the Miners and Operators of the Central Competitive Field, 1904	1596	1066
Excerpt of Statement of John Mitchell in the Proceedings of the Joint Conference of the Miners and Operators of the Central Competitive Field, 1904	1598	1068
Excerpt of Statement of John Mitchell in the Proceedings of the Joint Conference of the Miners and Operators of the Central Competitive Field, 1904	1599	1068
Excerpt of Colloquy between Mr. Mitchell and Mr. Chapman in the Proceedings of the Joint Conference of the Miners and Operators of the Central Competitive Field, 1904	1601	1069
Excerpt of Statement of W. B. Wilson in the Proceedings of the Joint Conference of the Miners and Operators of the Central Competitive Field, 1904	1602	1069
Excerpt of Statement of Mr. Mitchell in the Proceedings of the Joint Conference of the Miners and Operators of the Central Competitive Field, 1904	1602	1070
Excerpt of Statement of Mr. Dolan in the Proceedings of the Joint Conference of the Miners and Operators of the Central Competitive Field, 1904	1604	1071
Excerpt of the Proceedings of the Scale Committee on Scale Contract	1605	1071
Title Page to the Proceedings of the Joint Interstate Conferences of Miners and Operators of Pennsylvania and other States in 1906	1607	1072
Remarks of Vice-President Lewis in the Proceedings of the Joint Interstate Conferences of Miners and Operators of Pennsylvania and other States in 1906	1608	1073
Rules adopted at Joint Interstate Conferences of Miners and Operators of Pennsylvania and other States in 1906	1608-a	1074
Excerpt of Argument of President Mitchell in the Proceedings of the Joint Interstate Conferences of Miners and Operators of Pennsylvania and other States in 1906	1609	1074
Excerpt of Argument of Mr. Haskins in the Proceedings of the Joint Interstate Conferences of Miners and Operators of Pennsylvania and other States in 1906	1611	1076
Excerpt of Argument of President Mitchell in the Proceedings of the Joint Interstate Conferences of Miners and Operators of Pennsylvania and other States in 1906	1613	1077
Excerpt of the Argument of J. H. Walker in the Proceedings of the Joint Interstate Conferences of Miners and Operators of Pennsylvania and other States in 1906	1617	1079

	Original.	Print.
Excerpt of Argument of Vice-President Lewis in the Proceedings of the Joint Interstate Conferences of Miners and Operators of Pennsylvania and other States in 1906	1618	1079
Excerpt of the Proceedings of the Joint Interstate Conferences of Miners and Operators of Pennsylvania and other States in 1906	1618	1079
Title Page to the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States 1908	1619	1080
Excerpt of the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1908	1619	1080
Excerpt of the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1908	1620	1081
Interstate Agreement of 1908-10 between Operators and Miners of Pennsylvania and other States	1620	1081
Excerpt of the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1914	1623	1083
Excerpt of Argument of Mr. White in the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1914	1625	1085
Excerpt of Argument of Mr. White in the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1914	1627	1086
Operators' Demands	1628	1087
Excerpt of the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1914	1629	1087
Title Page to the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1910	1630	1088
Argument of Mr. Lewis in the Proceedings of the Joint Coference of Miners and Operators of Pennsylvania and other States in 1910	1631	1089
Excerpt of Credential Committee's Report in the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1910	1636	1092
Excerpt of Argument of Mr. Feehan in the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1910	1639	1094
Excerpt of Remarks of President White in the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1910	1640	1095
Excerpt of Remarks of Mr. Feehan in the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1910	1640	1095
Excerpt of Remarks of President Lewis in the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1910	1643	1097
Excerpt of Statement by Mr. Savage in the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1910	1643	1097
Excerpt of Statement by Mr. McCullough in the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1910	1645	1098

	Original.	Print.
Excerpt of Remarks of President Lewis in the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1910	1648	1100
Excerpt of Remarks of President Lewis in the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1910	1649	1101
Title Page to the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1912	1651	1103
Report of Credentials Committee in the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1912	1652	1103
Excerpt of Remarks of President White in the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1912	1656	1106
Excerpt of Remarks of Vice-President Hayes in the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1912	1659	1108
Excerpt of Statement by Mr. Feehan in the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1912	1662	1110
Excerpt of Statement by Mr. Penna in the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1912	1664	1111
Excerpt of Remarks of Mr. McDonald in the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1912	1668	1114
Excerpt of Statement by President Lewis in the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1912	1671	1116
Excerpt of Remarks of Mr. McDonald in the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1912	1673	1117
Excerpt of Remarks of Vice-President Hayes in the Proceedings of the Joint Conference of Miners and Operators of Pennsylvania and other States in 1912	1676	1119
Agreement between United Mine Workers of America and Miners and Operators of several States, March 30, 1912	1678	1120
Excerpt of United Mine Workers' Journal, September 12, 1907	1684	1124
Excerpt of United Mine Workers' Journal, August 29, 1912	1688	1127
Excerpt of United Mine Workers' Journal, October 3, 1912	1690	1128
Excerpt of United Mine Workers' Journal, February 20, 1913	1693	1130
Excerpt of United Mine Workers' Journal, September 18, 1913	1695	1132
Address of John P. White in the Proceedings of the Special Convention of District 21, May 18, 1914	1699	1135
Excerpt of United Mine Workers' Journal, February 20, 1913	1714	1145
Excerpt of the Proceedings of Miners' Convention of 1907	1715	1145
Excerpt of the Proceedings of Miners' Convention of 1911	1716	1146
Excerpt of the Report of President Lewis for the Year 1911	1717	1147
O. T. Looper	1720	1148
Excerpt of Plaintiffs' Exhibit 32, Proceedings of the Special Convention of District No. 21, May 18, 1914	1724	1151
Jake Ritche	1738	1160
S. P. McLaughlin	1747	1166

	Original.	Print.
Bob Bly	1755	1171
W. P. Upton	1761	1176
William Willett	1767	1180
Mrs. W. H. Argo	1769	1182
William H. Argo	1771	1183
J. W. Sylsberry	1789	1196
Roland F. Barnes, Deposition of	1797	1202
John T. Allison	1872	1253
Ewing Thomas, Deposition of	1882	1261
English Dougherty	1909	1280
Andrew Dougherty	1938	1301
Plaintiffs' Exhibit 42, Slip of Paper bearing Address,—C. E. Pattie, Box 376, Hartford, Arkansas	1951	1310
Plaintiffs' Exhibit 43, Slip of Paper bearing Addresses,—H. M. Strope, Frank Sharp, Box 672, Hartford, Arkansas	1951	1310
Dr. Oscar M. Neill	1955	1312
Mrs. Mahala Barnes	1961	1316
C. H. Langdorf	1963	1317
William Thomas, Deposition of	1984	1332
J. R. Bailey	2013	1352
Arch Caldwell	2033	1365
Ellet T. Goddard	2044	1372
James A. Murray	2045	1373
George A. Davis	2050	1376
J. Curtis Bohannan	2058	1381
William T. White	2061	1383
William Saunders, Deposition of	2073	1392
W. T. Forrester	2088	1402
Mrs. John Degen	2093	1405
James H. Meeks	2104	1413
Elmer Bohannan	2115	1421
John W. Baker	2118	1423
Charley Cheek, Deposition of	2121	1425
William V. Womack	2156	1449
William J. Goatcher	2164	1455
Excerpt of United Mine Workers' Journal, July 23, 1914	2173	1462
Charles Suttles, Deposition of	2174	1463
Mrs. Rhelda Perry, Deposition of	2195	1476
A. W. McGee, Deposition of	2220	1493
Lee Bishop	2224	1495
James O. Johnson, Deposition of	2228	1498
Mrs. Preddro Brown	2250	1514
Harry Dunlap	2256	1518
Levi Brown	2270	1527
J. L. Briggs	2283	1536
Ewell Doughit	2286	1538
Mike Doughit	2293	1542
Fred Francis	2298	1545
David Stanley	2306	1551
Melvin Roberts	2311	1554
S. T. Moore	2314	1556
Joseph A. Parrish, Deposition of	2323	1562
Ed Parrish, Stipulation as to	2335	1571
Mrs. Eva Trannell, Stipulation as to	2336	1571

	Original.	Print.
Mrs. Eva Trannell, Testimony of, at former trial, (Ex 45)	2338	1573
N. G. Tyler, Deposition of	2346	1578
Hannibal Green	2355	1584
Joseph A. McConnell	2361	1588
Mike Doughit, Re-called	2368	1593
Charles L. Reierson, Deposition of	2369	1594
Exhibits	2387	1607
6, Letter, H. B. Hill to Rem. U. M. C. Co., June 19, 1914	2387	1607
7, Letter, Remington Arms-Union Metallic Cartridge Co., to H. B. Hill, June 19, 1914	2388	1607
10, Telegram, H. B. Hill to Remington Arms-Union Metallic Cartridge Co., June 18, 1914	2393	1611
11, Telegram, Remington Arms-Union Metallic Cartridge Co., to H. B. Hill, June 18, 1914	2394	1612
1, Telegram, Remington Arms-Union Metallic Cartridge Co., to H. B. Hill, June 10, 1914	2395	1613
2, Telegram, Remington Arms-Union Metallic Cartridge Co., to H. B. Hill, June 10, 1914	2395	1613
3, Order to the Remington Arms-Union Metallic Cartridge Co. from H. B. Hill, June 10, 1914	2396	1613
4, Letter, Remington Arms-Union Metallic Cartridge Co. to H. B. Hill, June 10, 1914	2396	1613
5, Order to the Remington Arms-Union Metallic Cartridge Co., from H. B. Hill, June 10, 1914	2397	1614
8, Order to the Remington Arms-Union Metallic Cartridge Co., from H. B. Hill, June 17, 1914	2398	1615
9, Order to the Remington Arms-Union Metallic Cartridge Co., from H. B. Hill, June 17, 1914	2398	1615
Testimony for Defendants	2413	1626
John P. White	2413	1626
Testimony for Plaintiffs	2430	1638
John P. White	2430	1638
Lee Rogers	2435	1641
John P. White, recalled	2438	1643
Mrs. Fannie Briggs	2440	1645
Exhibit 44, Letter to Mr. H. Briggs, April 19, 1914	2441	1646
Garland C. Choate	2443	1647
Harry B. Hill, Deposition of	2448	1651
Sam Thomas	2463	1659
Leo S. Schell, Deposition of	2476	1668
John Laws	2502	1686
Plaintiff's Exhibit 54, Invoice Atkinson-Williams Hardware Company, to John Mastell, $176.55, June 10, 1914	2504	1687
Invoice Atkinson-Williams Hardware Company, to John Mastell, $230.00, June 13, 1914	2505	1688
Invoice Atkinson-Williams Hardware Company, to John Mastell, $362.94, June 22, 1914	2507	1690
Henry Edward Morgan	2509	1690
Plaintiff's Exhibit 55, Check, United Mine Workers of America, District No. 21, to Cash, $355.68, June 30, 1914	2515	1695
Bascom Allen	2518	1697
S. T. Brown	2522	1699
E. Lee Harmon	2525	1701
S. T. Brown, recalled	2534	1707

	Original.	Print.
William D. Tharel	2536	1708
Bud Porter	2541	1711
S. P. Epperson	2544	1715
William F. Meeks, Deposition of	2549	1718
J. E. Boring	2582	1740
Plaintiff's Exhibit 57, Pay Roll and list of all employees of the Central Coal and Coke Company for April and July, 1914, Recital of	2582	1740
Plaintiff's Exhibit 58, Check-off list turned in by the Secretary of Local Union, 1526 and 1530 of the United Mine Workers of America, Recital of	2583	1741
Z. T. Beaty	2591	1746
W. R. Eustice	2593	1748
I. L. Cole	2596	1750
J. F. Rauser	2600	1753
Charles Baskins	2604	1755
W. J. Smith	2608	1758
Mrs. Sabitha Smith	2610	1759
Miss Millie Smith	2612	1761
J. B. Atkisson	2615	1762
Hugh R. Rankin	2619	1765
Paul C. Hamilton	2622	1767
Charles Dalton	2630	1772
Pleasant P. Baker	2634	1775
John S. Shaleen	2640	1779
Clarence A. Shaleen	2648	1785
Frank M. Morgan	2652	1787
E. F. Hackett, Deposition of	2654	1789
D. A. Steele	2675	1804
J. J. Johnson	2679	1806
F. A. Youmans	2690	1814
Roger B. Hull	2694	1817
F. A. Youmans, recalled	2696	1818
Letter to Judge Youmans, July 27, 1914	2698	1819
A. M. Chitwood	2701	1821
Will Bohannan	2706	1824
E. G. Castell	2709	1826
D. VanHecke	2713	1829
James R. Cole	2714	1829
Sid Johnson	2716	1831
J. N. Hamilton	2718	1832
Dr. E. B. Jones	2720	1833
John H. Hayden	2723	1835
Plaintiffs' Exhibit 60, Check of United Mine Workers of America, District 21, to Hayden Sporting Goods Co., $411.99, June 30, 1914	2725	1836
J. K. Thrasher, Deposition of	2729	1839
M. W. Weston, Deposition of	2739	1845
M. W. Weston, Deposition of, recalled	2751	1854
St. Cloud Cooper	2753	1855
John Weston, Deposition of	2755	1856
H. O. Lewis	2761	1860
Plaintiffs' Exhibit 61, Relief Map of the Prairie Creek Mine, No. 4, and its vicinity, Recital of	2761	1860

	Original.	Print.
G. W. Scowl	2767	1863
Mack Weston, Deposition of	2772	1867
W. B. Kissinger, Deposition of	2782	1874
H. H. York, Deposition of	2791	1880
Hilbert Stroupe	2803	1888
W. C. Harp, Deposition of	2815	1897
George Simmons, Deposition of	2822	1902
Howard H. Redner	2837	1912
Rufus H. Lamb	2840	1914
Howard H. Redner, recalled	2845	1918
M. B. Willsley	2847	1919
M. O. Willsley	2858	1926
Plaintiffs' Exhibit 99, Stub of Check to Hayden Sporting Goods Co., $411.19, June 30, 1914	2861	1928
Amos S. Johnson	2862	1928
John E. Finney	2865	1931
Frank Pigg	2867	1932
Heber Denman	2871	1935
Edward J. M. Peake	3022	2039
W. E. Beaty	3026	2042
H. C. Rice	3030	2044
E. W. Hogan	3033	2046
J. P. King	3037	2049
William A. Evans	3043	2053
J. G. Peterbaugh	3044	2054
B. G. Moore	3056	2062
Heber Denman, recalled	3058	2063
Plaintiffs' Exhibits	3058	2064
102 Contract of Lease between Cherokee Construction Co., et al., and Mammoth Vein Coal Co., June 18, 1906	3058	2064
Inventory of Property owned by the Cherokee Construction Co	3074	2075
103 Contract between Cherokee Construction Co. and Mammoth Vein Coal Co., June 26, 1909	3090	2090
104, Contract of Lease between Mrs. Belle McEachin, et al., and Missouri Coal Company, May 1, 1907	3091	2091
120, Contract of Lease between Mammoth Vein Coal Co. and Prairie Creek Coal Mining Co., March 27, 1911	3101	2099
121, Contract of Lease between the Kali-Inla Coal Co. and the Mammoth Vein Coal Co., January 1, 1912	3103	2100
123, Contract of Lease between the Kali-Inla Coal Co., and the Mammoth Vein Coal Co., November 30, 1910	3105	2102
122, Assignment of Contract of March 27, 1911, between Mammoth Vein Coal Co. and Prairie Creek Coal Co. to Kali-Inla Coal Co	3107	2103
124, Contract of Lease between Deaman Coal Co. and Mammoth Vein Coal Co., October 5, 1910	3108	2104
108, Contract of Lease between T. W. M. Boone and Wife and the Prairie Creek Coal Co., January 13, 1903	3110	2105
Papers annexed to Exhibit 112	3116	2110
Authority of Sebastian County Coal Co. for the Assignment of Lease between Coronado Coal Co. and Sebastian County Coal Co. to Arkoal Co., October 5, 1909.	3116	2110

	Original.	Print.
Authority and Agreement of Franklin Bache to the Deed of the Coronado Coal Co. to the Arkoal Company, October 5, 1909	3117	2110
Acceptance and Agreement by the Sebastian Coal Co. to the Assignment of Lease from Sebastian Coal Co. to Franklin Bache, October 5, 1909	3117	2111
Assignment of Contract of Lease between Sebastian County Coal Co. and Franklin Bache to Coronado Coal Co., January 1, 1907	3117	2111
112, Contract of Lease between Sebastian County Coal Co. and Franklin Bache, January 1, 1907	3120	2112
109, Assignment of Contract of Lease between T. W. M. Boone and Wife, and the Prairie Creek Coal Co. to Sebastian County Coal Co., November 22, 1904	3134	2121
113, Contract of Lease between Arkansas Coal and Mining Co. and the Coronado Coal Co., December 23, 1913	3137	2124
114, Contract between Arkansas Coal and Mining Co., Smokeless Fuel Co. and Coronado Coal Co., December 23, 1913	3147	2130
125, Contract of Lease between Denman Coal Co. and the Coronado Coal Co., October 5, 1910	3153	2135
126, Contract of Lease between Denman Coal Co. and the Coronado Coal Co., March 27, 1911	3155	2136
*127, Contract of Lease between Mammoth Vein Coal Co. and the Coronado Coal Co., January 3, 1910	3157	2138
128, Contract of Lease between Coronado Coal Co. and the Hartford Coal Co., January 3, 1910	3159	2139
100, Contract of Lease between American Smokeless Coal Co., et al., and Mammoth Vein Coal Mining Co., July 10, 1905	3161	2140
101, Supplemental Contract of Lease between Cherokee Construction Co. and Mammoth Vein Coal Mining Co., June 10, 1909	3179	2152
107, Contract of Lease between Cherokee Construction Co. and Prairie Creek Coal Mining Co., December 19, 1906	3181	2154
Defendants' Exhibit 15, Inventory of Equipment at Mines 3 and 4 leased to the Prairie Creek Coal Mining Co., by the Cherokee Construction Co., January 1, 1907	3195	2163
Plaintiffs' Exhibits	3216	2180
105, Contract of Lease between Cherokee Construction Co. and Prairie Creek Coal Mining Co., July 1, 1909	3216	2180
129, Contract of Lease between Kali-Inla Coal Co. and the Prairie Creek Coal Mining Co., December 1, 1911.	3232	2190
130, Contract of Lease between Kali-Inla Coal Co. and the Prairie Creek Coal Mining Co., July 31, 1911	3234	2192
131, Contract of Lease between Kali-Inla Coal Co. and the Prairie Creek Coal Mining Co., February 1, 1913	3236	2194
132, Contract of Lease between Kali-Inla Coal Co. and the Prairie Creek Coal Mining Co., May 31, 1911	3238	2195
133, Contract of Lease between Kali-Inla Coal Co. and the Prairie Creek Coal Mining Co., December 1, 1912.	3240	2197
134, Contract of Lease between Kali-Inla Coal Co. and the Prairie Creek Coal Mining Co., Feb. 1, 1914	3242	2198

	Original.	Print.
135, Contract of Lease between Kali-Inla Coal Co. and the Prairie Creek Coal Mining Co., Aug. 31, 1911	3244	2200
136, Contract of Lease between Kali-Inla Coal Co. and the Prairie Creek Coal Mining Co., Jan. 1, 1911	3246	2201
137, Contract of Lease between Mammoth Vein Coal Co. and the Prairie Creek Coal Mining Co., Mar. 27, 1911	3248	2203
138, Assignment of Contract of Lease between Mammoth Vein Coal Co. and the Prairie Creek Coal Mining Co. to Kali-Inla Coal Co., Aug. 2, 1911	3250	2204
139, Contract of Lease between Kali-Inla Coal Co. and the Prairie Creek Coal Mining Co., Mar. 27, 1911	3252	2205
140, Supplements to Contract of Lease between Kali-Inla Coal Co. and the Prairie Creek Coal Mining Co., April 15, 1911	3253	2206
141, Contract of Lease between Kali-Inla Coal Co. and the Prairie Creek Coal Mining Co., Feb. 28, 1914	3255	2207
142, Contract of Lease between Kali-Inla Coal Co. and the Prairie Creek Coal Mining Co., Nov. 30, 1913	3257	2209
143, Contract of Lease between Kali-Inla Coal Co. and the Prairie Creek Coal Mining Co., Sept. 30, 1913	3259	2210
144, Contract of Lease between Kali-Inla Coal Co. and the Prairie Creek Coal Mining Co., Jan. 31, 1914	3261	2211
145, Contract of Lease between Kali-Inla Coal Co. and the Prairie Creek Coal Mining Co., Mar. 31, 1913	3262	2213
146, Contract of Lease between Kali-Inla Coal Co. and the Prairie Creek Coal Mining Co., Nov. 30, 1913	3264	2214
147, Contract of Lease between Kali-Inla Coal Co. and the Prairie Creek Coal Mining Co., Dec. 31, 1913	3266	2215
148, Contract of Lease between Kali-Inla Coal Co. and the Prairie Creek Coal Mining Co., Sept. 30, 1913	3268	2216
149, Contract of Lease between Hartford Coal Co. and the Prairie Creek Coal Mining Co., Jan. 1, 1913	3270	2218
150, Contract of Lease between Mammoth Vein Coal Co. and the Prairie Creek Coal Mining Co., Mar. 27, 1911.	3273	2219
151, Agreement between Prairie Creek Coal Mining Co. and Mammoth Vein Coal Mining Co., July 7, 1914	3275	2221
Contract between Prairie Creek Coal Mining Co., and the Mammoth Vein Coal Mining Co., Mar. 23, 1914.	3275	2221
152, Contract between Sebastian County Coal and Mining Co. and the Prairie Creek Coal Mining Co., Aug. 1913.	3278	2223
153, Contract of lease between Mammoth Vein Coal Mining Co. and the Hartford Coal Co., June 22, 1914	3283	2227
154, Contract of Lease between Franklin Bache and the Hartford Coal Co., Nov. 20, 1913	3295	2236
Contract of Lease between Receivers of Bolen-Darnall Coal Co. and Franklin Bache, Nov. 19, 1913	3298	2238
155, Contract of Lease between Denman Coal Co. and Hartford Coal Co., Dec. 1, 1910	3303	2242
115, Agreement between Mammoth Vein Coal Co. and Mammoth Vein Coal Mining Co., July 7, 1914	3305	2244
Contract between Mammoth Vein Coal Co. and Mammoth Vein Coal Mining Co., Mar. 23, 1914	3306	2244
116, Contract of lease between Kali-Inla Coal Co. and Mammoth Vein Coal Co., Feb. 14, 1914	3310	2246

	Original.	Print.
117, Contract of Lease between Denman Coal Co. and the Mammoth Vein Coal Co., Dec. 5, 1911	3313	2248
118, Contract of Lease between Denman Coal Co. and the Mammoth Vein Coal Co., Oct. 5, 1910	3316	2249
119, Contract of Lease between Denman Coal Co. and the Mammoth Vein Coal Co., Jan. 15, 1914	3319	2251
157, Agreement between Receivers for Mammoth Vein Coal Co., et al., and W. H. Miellmier, Oct. 19, 1917	3323	2253
Contract of Lease between Receivers of Mammoth Vein Coal Co., et al. and W. H. Miellmier, June 28, 1917	3323	2254
Bond on Contract	3328	2257
110, Assignment of Contract of Lease between T. W. M. Boone and Wife, and Prairie Creek Coal Co. to Joseph M. Spradling, Oct. 30, 1905	3331	2258
111, Deed of Release as to Boone Lease by Cherokee Construction Co., Oct. 30, 1905	3336	2260
158, Contract of Lease between Mammoth Vein Coal Co. and Coronado Coal Co., Jan. 3, 1910	3341	2263
114, Contract of Lease between Mammoth Vein Royalty Co. and Mammoth Vein Coal Co., Oct. 1, 1904	3342	2264
Contract between Mammoth Vein Coal Co. and Midland Valley Railroad Co., April 18, 1904	3353	2272
Heber Denman, recalled	3359	2275
Plaintiffs' Exhibit 158-A, Contract of Lease between Receivers of Hartford Coal Co. and Roughley-Patterson-White Coal Co., April 2, 1917	3360	2276
George Eyster	3368	2280
Walter Gilman	3380	2289
J. B. Hilling	3394	2299
H. O. Lewis	3399	2302
C. H. Finley	3402	2304
Franklin Bache, recalled	3409	2309
H. P. Hilliard	3443	2332
C. H. Finley, recalled	3446	2334
William J. Clinton, Deposition of	3464	2347
Plaintiffs' Exhibit A, Receipt of United States Express Co. for one case from Remington Arms-Union Metallic Cartridge Co., June 10, 1914	3467	2349
Plaintiffs' Exhibit B, Receipt of United States Express Co. for five cases from Remington Arms-Union Metallic Cartridge Co., June 18, 1914	3467	2349
John J. Morris, Deposition of	3467	2349
Plaintiffs' Exhibit C, Receipt of American Express Co. for two cases from Remington-Arms-Union Metallic Cartridge Co., June 22, 1914	3469	2350
Thurman Looper, Deposition of	3469	2350
Excerpts of the Joint Conference Proceedings of the United Mine Workers of America for 1901	3474	2353
Excerpt of Remarks of Mr. Mitchell	3474	2354
Excerpt of Remarks of Messrs. Mitchell, Bogle, Purcell and Lewis	3475	2354
Excerpts of the Joint Conference Proceedings of the United Mine Workers of America for 1902	3478	2356
Excerpt of Remarks of Mr. Robbins	3478	2356

	Original.	Print.
Rules as Amended	3479	2357
Excerpt of Report of Committee on Credentials	3480	2358
Excerpt of Remarks of Mr. Mitchell	3481	2358
Excerpt of Remarks of Mr. Lewis	3481	2359
Excerpt of Colloquy between Messrs. Ryan, Mitchell and Robbins	3483	2360
Excerpt of Statement by Mr. Mitchell	3484	2361
Excerpt of Statement by Mr. Lewis	3484	2361
Excerpt of Statement by Mr. Mitchell	3485	2361
Excerpt of Argument of Mr. Reese	3487	2363
Excerpt of Statement by Mr. Mitchell	3488	2364
Agreement as to Scale of Wages between Miners and Operators	3489	2364
Excerpt of Statement by Mr. Mitchell	3490	2365
Excerpt of Statement by Mr. Lewis	3492	2366
Excerpt of Statement by Mr. Lewis	3493	2367
H. O. Lewis, Recalled	3494	2368
Plaintiffs' Exhibits	3498	2371
172, Decree, March 10, 1915, of the United States District Court, Western District of Arkansas, in the case of Coronado Coal Company., et al., vs. Sebastian County Coal Mining Company, et al	3498	2371
173, Decree, September 4, 1915, of the United States District Court, Western District of Arkansas, in the case of Coronado Coal Company, et al., vs. Sebastian County Coal Company, et al	3504	2375
177, Voucher drawn by A. G. McGraw on the United Mine Workers of America, Local Union 1565, $2.00, Oct. 2, 1917	3512	2380
178, Voucher drawn by A. G. McGraw on the United Mine Workers of America, Local Union 1565, $2.00, Oct. 2, 1917.	3512	2380
Excerpt of United Mine Workers Journal, April 16, 1914	3518	2384
Plaintiffs' Exhibit 189, Expense Account of John P. White, first 2 weeks of April, 1914, Narrative Statement of	3520	2385
Plaintiffs' Exhibit 190, Expense Account of James Mullen, first 2 weeks of April, 1914, Narrative Statement of	3521	2386
Plaintiffs' Exhibit 191, Report of Officers of United Mine Workers of America for first half of April, Narrative Statement of	3524	2388
Excerpt of the Minutes of the Executive Board of the United Mine Workers of America, May 4, to 8, 1914 at Indianapolis, Indiana	3525	2389
Excerpt of United Mine Workers' Journal, July 9, 1914	3527	2391
Excerpt of United Mine Workers' Journal, July 23, 1914	3528	2391
Excerpt of United Mine Workers' Journal, July 30, 1914	3531	2393
Excerpt of United Mine Workers' Journal, March 30, 1911	3532	2394
Excerpt of United Mine Workers' Journal, July 30, 1914	3534	2396
Excerpts of United Mine Workers' Journal, August 6, 1914	3540	2399
Excerpt of United Mine Workers' Journal, November 19, 1914.	3542	2401
Excerpt of the Minutes of the International Executive Board of the United Mine Workers' at Indianapolis, Indiana, November 30, 1914	3548	2405
Excerpt of United Mine Workers' Journal, December 3, 1914.	3549	2406
Excerpt of United Mine Workers' Journal, November 26, 1914.	3552	2408

	Original.	Print.
Letter to Judge Youmans, July 27, 1914	3554	2409
Excerpt of United Mine Workers' Journal, November 26, 1914.	3555	2410
Excerpt of United Mine Workers' Journal, November 26, 1914.	3558	2412
Plaintiff's Exhibit 193, Indictment returned in the U. S. District Court for the Western District of Arkansas	3563	2415
Decree of the U. S. District Court for the Western District of Arkansas, May 9, 1914, in the case of Mammoth Vein Coal Mining Company vs. M. Hunter, et al	3564	2416
Letter to Judge Youmans, July 27, 1914	3570	2421
Excerpt of the Proceedings of the Convention of the United Mine Workers' National Organization, for 1916	3575	2425
Excerpt of the Report of the Committee on Credentials	3575	2425
Excerpt of the Final Report of the Committee on Credentials	3575	2425
Excerpt of the Complete Report of the Committee on dentials	3576	2425
Excerpt of the Report of President White	3576	2426
Excerpt of the Report of the Committee on Officers' Reports.	3578	2427
Excerpt of United Mine Workers' Journal, December 3, 1914	3578	2431
Excerpt of United Mine Workers' Journal, April 15, 1915	3584	2431
Excerpt of United Mine Workers' Journal, October 14, 1915	3586	2433
Excerpt of United Mine Workers' Journal, October 7, 1915	3587	2433
Excerpt of the Proceedings of the Convention of the United Mine Workers, District No. 21, September 21, 1915	3590	2436
Final Corrected Report of the Credentials Committee	3590	2436
Excerpt of the Report of President Hanraty	3592	2437
Excerpt of the Remarks of Mr. Howard	3593	2437
Excerpt of the Remarks of Mr. McLaughlin	3594	2438
Excerpt of the Remarks of Mr. Covington	3595	2439
Excerpt of the Remarks of Mr. Covington	3596	2439
Excerpt of the Proceedings of the Convention of the United Mine Workers of District No. 21, April 18, 1916, Recital of	3602	2444
Excerpts of Treasurer's Cash Book of Local Union No. 1565, Recital of	3603	2445
Excerpts of Minute Book of Local Union No. 1526	3608	2449
G. W. Traer	3613	2453
Excerpt of Minute Book of Local Union No. 1814, of Deming, Arkansas	3630	2474
Excerpt of Minute Book of Local Union No. 1842, of Greenwood, Arkansas	3630	2475
Excerpt of Minute Book of Local Union No. 1912, of Hartford, Arkansas	3631	2475
Excerpt of Minute Book of Local Union No. 2769, of Hartford, Arkansas	3631	2475
Excerpt of the Minutes of Meeting at Huntington, Arkansas, February 24, 1915	3632	2466
Excerpt of Minutes of Local Union No. 2494, at Arcole, Arkansas.	3633	2466
Excerpt of the Minutes of the International Executive Board July 21, 1914	3634	2467
Excerpt of the Minutes of the International Executive Board at Philadelphia, November 16 to 21, 1914	3634	2467
Excerpt of the Fifth Semi-Annual Report of Fred W. Holt, Secretary-Treasurer of District No. 21, United Mine Workers of America	3634	2467

	Original.	Print.
Excerpt of Semi-Annual Report of T. B. Douglas, Secretary-Treasurer from October 1, 1914, to March 31, 1915	3636	2469
Excerpt of Semi-Annual Report of T. B. Douglas, Secretary-Treasurer from April 1, 1915 to September 20, 1915	3639	2471
Excerpt of the Eighth Semi-Annual Report of the United Mine Workers of America, District No. 21, October 1, 1915 to March 31, 1916	3640	2471
Excerpt of the Ninth Semi-Annual Report of the United Mine Workers District No. 21, April 16, to September 30, 1916	3641	2472
Excerpts of the Criminal Docket U. S. District Court Western District of Arkansas, (In Re judgments and sentences of Clint Burris et al	3648	2476
Excerpt of the Criminal Docket U. S. District Court Western District of Arkansas, (In Re fines)	3657	2483
Excerpts of the Criminal Docket U. S. District Court Western District of Arkansas. In Re judgments and sentences of Sandy Robinson, et al. for contempt)	3663	2487
Plaintiff's Exhibit 159, Bond on Contract between Chicago, Rock Island and Pacific Railway Company and Bache-Denman Coal Company, March 21, 1911	3667	2490
Contract between Chicago, Rock Island and Pacific Railway Company and Bache-Denman Coal Company, March 21, 1911	3668	2491
Plaintiff's Exhibit 40, Letter to U. S. Marshal, Western District of Arkansas, May 23, 1914	3681	2500
Plaintiff's Exhibit 41, Letter to John S. Cameron	3683	2502
C. H. Finley, recalled	3685	2503
Defendant's Motion for a directed verdict and motion to strike out certain testimony denied and exceptions thereto, Recital of	3687	2504
Testimony for Defendant's	3689	2505
William Green	3689	2505
Elsidore McColloch	3692	2508
Francis Feehan	3697	2512
John S. Cameron	3710	2521
John S. Cameron, recalled	3720	2528
W. H. Coulter	3721	2529
P. L. Harrison	3728	2533
Joe White	3738	2540
Thomas McDonald	3743	2543
M. M. McWilliams	3755	2552
Ed. W. Hogan	3757	2553
D. C. McAlpine	3760	2556
W. E. Beatty	3763	2557
J. C. Reed	3765	2558
J. D. Finney	3768	2561
P. R. Allen	3770	2562
J. G. Puterbaugh	3772	2563
James P. Hoye	3775	2565
R. A. Young	3777	2566
W. J. Hamilton	3779	2568
W. S. Sampson	3782	2570
Dan Wilcox	3784	2571
Nick Berkell	3787	2573
Ella Howard	3794	2578

	Original.	Print.
Theresa Del Rosa	3799	2582
Elberta Johnson	3802	2584
H. H. Martin	3813	2591
Jessie Thompson	3814	2592
Mrs. Sam Dorman	3821	2599
Mary Mastell	3833	2607
Mary Manick	3837	2610
Charles Howard	3844	2615
Pete Stewart	3847	2616
L. Schmidt	3851	2619
Charles Clayborn	3866	2629
Mrs. Ella Bumpas	3875	2635
W. H. Cluck	3882	2640
Excerpt of the United Mine Workers' Journal, July 23, 1914.	3893	2648
W. J. Jenkins	3895	2649
G. W. Dunn	3900	2653
Walter Dunn	3908	2658
Cliff Sloan	3913	2662
Ed. Ables	3919	2666
Dr. V. V. Butler	3927	2671
W. L. A. Johnson	3931	2673
F. W. Lukens	3934	2675
John Bumpas	3945	2682
Sarah Hobbs	3958	2691
Mrs. Beryl Ashley	3965	2696
Charles J. Hart	3969	2698
Peter Graham	3972	2700
Mrs. Peter Graham	3981	2707
Michael Hunter	3987	2711
Peter Nickolle	3992	2715
Peter Graham, recalled	3996	2717
A. Keefer	3998	2718
Melvin Keefer	4002	2721
J. S. Brown	4004	2722
William McLachlan	4007	2742
Thomas M. King	4040	2747
Gus G. Sparling	4044	2750
William Dalrymple	4048	2753
Will Miller	4057	2759
Bob Anderson	4066	2765
Harry N. Taylor	4070	2768
W. D. Ryan	4087	2780
George Westwood	4089	2781
Harry Bousfield	4098	2787
Harry McGovern	4100	2788
James Dunn	4106	2793
Frank Haley	4108	2794
John T. W. Davis	4118	2801
Carnie Dowdy	4125	2805
Ed. Baker	4127	2807
George Fuller	4130	2808
Mrs. Charles Gooden	4132	2810
Cale R. Jones	4135	2811
Fred Evans	4137	2812

	Original.	Print.
Thomas H. Shaw	4139	2813
Dr. H. C. King	4146	2818
Marion Hulsey	4152	2822
James Doyle	4157	2826
Defendants' Exhibits	4161	2829
28, Constitution of the United Mine Workers of America, District No. 21	4161	2829
29, Certified Copy of the Articles of Incorporation of the Denman Coal Company, State of West Virginia	4194	2854
30, Certified Copy of the Articles of Incorporation of Bache-Denman Coal Company, State of West Virginia	4199	2857
31, Excerpt of Articles of Incorporation of Hartford Coal Company, State of Arkansas, June 3, 1907	4210	2865
32, Excerpt of Articles of Incorporation of Denman Coal Company, State of Arkansas, June 3, 1907	4211	2865
33, Excerpt of Articles of Incorporation of Mammoth Vein Coal Mining Company, State of Arkansas, June 3, 1907	4212	2866
34, Certified Copy of Articles of Agreement and Incorporation of the Prairie Creek Coal Mining Company, State of Arkansas, December 12, 1906	4213	2867
35, Certified Copy of Articles of Agreement and Incorporation of the Mammoth Vein Coal Company, State of Arkansas, April 18, 1904	4218	2871
36, Certified Copy of Articles of Agreement and Incorporation of the Sebastian County Coal Company, State of Arkansas, November 21, 1905	4226	2876
37, Excerpt of Articles of Incorporation of Bache-Denman Coal Company, State of Arkansas, June 3, 1907	4232	2881
38, Excerpt of Articles of Incorporation of Coronado Coal Company, State of Arkansas, June 3, 1907	4232	2881
M. F. Purcell, Deposition of	4234	2882
Exhibit A, Agreement between Montana Coal Operators' Association and United Mine Workers of America, District No. 27, October 1, 1912	4240	2886
Exhibit B, Agreement between Montana Coal Operators' Association and United Mine Workers of America, District No. 27, October 1, 1914	4284	2920
Exhibit C, Agreement between Montana Coal Operators' Association and United Mine Workers of America, District No. 27, October 1, 1916	4333	2960
William S. Wellshear	4393	3007
Orelia Jennings	4394	3007
Mrs. Leon Green	4398	3010
Kert Thompson	4403	3013
E. Marianelli	4406	3015
Charles E. Jones, Deposition of	4409	3017
Exhibit A, Constitution and By-Laws of the Western Coal Operators' Association, Adopted April 1, 1910	4417	3023
Exhibit B, Agreement between United Mine Workers of America and Washington Coal Operators' Association, August 13, 1910	4428	3029
Exhibit C, Agreement between United Mine Workers of America and Washington Coal Operators' Association, August 27, 1912	4470	3059

	Original.	Print.
Exhibit D, Agreement between United Mine Workers of America and Washington Coal Operators' Association, September 1, 1914	4529	3102
B. Trout	4577	3142
Testimony for Plaintiffs in Rebuttal	4579	3143
T. A. Norris	4579	3143
W. T. Snow	4581	3144
Samuel A. Garland	4582	3145
W. R. Irvin	4583	3146
Jess Goatcher	4584	3146
Excerpt of Plaintiffs' Exhibit 59, check-off list of the Central Coal and Coke Company, Mine No. 6, July 15, 1914	4585	3147
Excerpt of Plaintiffs' Exhibit 58, check-off list of Local Union No. 1526, April 15, 1914	4586	3148
Heber Denman	4586	3148
John Shaleen	4592	3152
Plaintiffs' Exhibit, No. 211, Motion to dismiss Appeal and Writ of Error, filed in the U. S. Circuit Court of Appeals.	4601	3158
Maggie Cross	4605	3161
Elmer Bohannan	4608	3163
William Rush	4612	3165
Edgar Sexton	4614	3166
Excerpt of United Mine Workers' Journal, November 10, 1910	4615	3167
Excerpt of the United Mine Workers' Journal, July 22, 1909	4616	3168
Evidence for Plaintiffs in Chief	4619	3170
Excerpt of United Mine Workers' Journal, July 27, 1911 (Official Notice July 25, 1911)	4619	3170
Plaintiff's Exhibits	4621	3171
212 Affidavit of William Mikel as to Records of Local Union No. 1810	4621	3172
213, Affidavit of Hugh Miller, as to the Records of Local Union No. 2110	4622	3172
214, Affidavit of E. W. Abston, as to Records of Local Union No. 2053	4623	3173
215, Affidavit of Hugh Miller, as to Records of Local Union No. 2110, having been destroyed by fire	4624	3147
216, Affidavit of W. F. Wallace, as to Records of Local Union No. 340	4625	3174
Memorandum Opinion of District Court on Defendants' Motion for a directed verdict	4632	3179
Motions for directed verdict overruled and Defendants' Exceptions thereto	4643	3187
Motions to strike out certain testimony denied and Defendants' Exceptions thereto	4643	3187
Court's Instructions to the Jury and Exceptions thereto	4644	3188
Instructions to the Jury requested by the Defendants	4691	3220
Court's additional Instructions to the Jury	4707	3232
Court's further Instructions to the Jury	4708	3233
Court's further Instructions to the Jury and Exceptions thereto.	4710	3234
Verdict and Exception thereto	4713	3237
Certificate of Judge to Bill of Exceptions	4715	3238
Motion for nunc pro tunc order on Demurrers to Third Amended Complaint	4716	3238

	Original.	Print.
Order, February 15, 1918, as of March 17, 1917, overruling Demurrers to Third Amended Complaint	4717	3239
Order allowing interest on Judgment	4719	3240
Order allowing Attorneys' Fee	4722	3242
Petition for Writ of Error	4723	3242
Assignment of Errors	4726	3244
Supersedeas Bond	4883	3356
Certificate of Authority from U. S. Treasury Department to The Aetna Accident and Liability Company, etc	4891	3362
U. S. Treasury Department list of companies acceptable as sureties on Federal Bonds, etc	4895	3365
Cost Bond on Writ of Error	4897	3366
Praecipe for Transcript	4904	3373
Petition of Defendants for an Order amending Bill of Exceptions, etc.	4905	3373
Cartoon taken from United Mine Workers' Journal, of June 11, 1908	4906	3375
Cartoon taken from United Mine Workers' Journal, of August 28, 1913	4907	3376
Cartoon taken from United Mine Workers' Journal, of July 16, 1914	4908	3377
Plaintiffs Exhibits	4909	3378
61, Relief Map of the vicinity of Prairie Creek, Sebastian County, Arkansas	4909	3378
62, Photograph of Coronado Tipple, November 19, 1913	4910	3379
69, Memorandum as to	4910	3379
63, Photograph of Rock Island Tipple in connection with Mammoth Vein Mine No. 1, November 19, 1913	4911	3380
74, Memorandum as to	4911	3380
64, Photograph of Mammoth Vein No. 6, November 19, 1913	4912	3381
65, Photograph of Mr. Heber Denman in Mammoth Vein Mine No. 1, prior to July 17, 1914	4913	3382
73, Memorandum as to	4913	3382
66, Photograph of Dallas Mine, November 13, 1913	4914	3383
72, Memorandum as to	4914	3383
67, Photograph of Midland Valley Tipple at Mammoth Vein No. 1, November 19, 1913	4915	3384
70, Memorandum as to	4915	3384
68, Photograph of Prairie Creek Mine No. 4, November 19, 1913	4916	3385
75, Memorandum as to	4916	3385
76, Photograph of engine and boiler room of Prairie Creek No. 3, Mine, July 20, 1914	4917	3386
77, Photograph of Boiler Room of Prairie Creek No. 3, July 20, 1914	4918	3387
78, Photograph of Tipple and Mine, Prairie Creek No. 3, July 20, 1914	4919	3388
95, Memorandum as to	4919	3388
81, Photograph of Mammoth Vein Mine No. 1 (Midland Valley Tipple), July 20, 1914	4920	3389
96, Memorandum as to	4920	3389
82, Photograph of Mammoth Vein No. 1, (Midland Valley Tipple) July 20, 1914	4921	3390
83, Photograph of Mammoth Vein No. 1, July 20, 1914	4922	3391

	Original.	Print.
84, Photograph of Rock Island Dump and Tipple site at Mammoth Vein No. 1. (Midland Valley Tracks) July 20, 1914	4923	3392
85, Photograph of slope of Mammoth Vein No. 1, July 20, 1914.	4924	3393
86, Photograph of Boiler House Mammoth Vein No. 1, July 20, 1914	4925	3394
87, Photograph of Mammoth Vein No. 1, (Midland Valley Tipple) July 20, 1914	4926	3395
97, Photograph of Prairie Creek Mine No. 4, July 19, 1914	4927	3396
89, Photograph of Prairie Creek No. 4, Tipple, July 19, 1914	4928	3397
90, Photograph of mouth of shaft of Prairie Creek No. 4, Mine, July 19, 1914	4929	3398
91, Photograph of Prairie Creek No. 4, July 19, 1914	4930	3399
94, Photograph of the smoke of Prairie Creek No. 3. July 20, 1914	4931	3400
92, Photograph of Coronado Mine after the fire, July 20, 1914.	4932	3401
98, Memorandum as to	4932	3401
Defendants' Exhibit 26, Photograph of culvert through which Mrs. Gooden crawled on night of shooting at Frog Town	4933	3402
Bill of Lading issued by the Midland Valley Railway Company, July 16, 1914, for car of coal shipped by the Mammoth Vein Coal Mining Company to McAlester Fuel Company	4938-a	3406
Order, April 25, 1918, as of February 7, 1918, amending Bill of Exceptions, etc	4940	3407
Clerk's Certificate to Transcript	4944	3410
Proceedings in the U. S. Circuit Court of Appeals	3412	3412
Appearance of Mr. Henry Warrum and Messrs. Covington & Grant as Counsel for Plaintiffs in Error	3412	3412
Appearance of Mr. Alton B. Parker as Counsel for Plaintiffs in Error	3412	3412
Appearance of Mr. James B. McDonough as Counsel for Defendants in Error	3413	3412
Appearance of Mr. Henry S. Drinker, Jr., as Counsel for Defendants in Error	3413	3413
Appearance of Mr. Roger B. Hull as Counsel for Defendants in Error	3413	3413
Order of Submission	3414	3413
Submission to third Judge	3414	3413
Opinion, U. S. Circuit Court of Appeals	3415	3414
Nisi Judgment, U. S. Circuit Court of Appeals	3443	3438
Certified Copy of Remittitur of Defendants in Error filed in District Court	3444	3439
Final Judgment, U. S. Circuit Court of Appeals	3446	3441
Petition of Defendants in Error for allowance of Counsel Fees	3448	3442
Protest against allowance of Counsel Fees to Counsel for Defendants in Error	3449	3443
Reply to Protest by Plaintiffs in Error against allowance of Counsel Fees to Counsel for Defendants in Error	3451	3444
Order denying Petition of Defendants in Error for allowance of Counsel Fees	3452	3445
Petition of Plaintiffs in Error for a Rehearing	3453	3445
Order denying Petition of Plaintiffs in Error for a Rehearing	3459	3450
Motion for stay of Mandate	3459	3450
Order staying Mandate	3461	3451
Clerk's Certificate to Transcript	3462	3451

Motion for further stay of Mandate 3451
Order staying Mandate until February 15, 1920 3452
Petition for Writ of Error from Supreme Court U. S. and allowance thereof 3452
Assignment of Errors on Writ of Error from Supreme Court U. S. 3453
Cost Bond on Writ of Error from Supreme Court U. S. 3459
Supersedeas Bond on Writ of Error from Supreme Court U. S. 3467
Writ of Error from Supreme Court U. S. and Clerk's Return 3473
Citation on Writ of Error from Supreme Court U. S. and Acceptance of Service 3474
Clerk's Certificate to Transcript 3475

Pleas and proceedings in the United States Circuit Court of Appeals for the Eighth Circuit, at the May Term, 1919, of said Court, before the Honorable Walter H. Sanborn and the Honorable William C. Hook, Circuit Judges, and the Honorable Jacob Trieber, District Judge.

Attest:

(Seal)

E. E. KOCH,
Clerk of the United States Circuit Court of Appeals for the Eighth Circuit.

Be it Remembered that heretofore, to-wit: on the twenty-seventh day of April, A. D. 1918, a transcript of record pursuant to a writ of error directed to the District Court of the United States for the Western District of Arkansas, was filed in the office of the Clerk of the United States Circuit Court of Appeals for the Eighth Circuit in a certain cause wherein the United Mine Workers of America, et al., were Plaintiffs in Error, and the Coronado Coal Company, et al., were Defendants in Error, which said transcript as prepared and printed under the rules of the United States Circuit Court of Appeals for the Eighth Circuit, under the supervision of its Clerk, is in the words and figures following, to-wit:

(Citation and Waiver of Service.)

United States of America, To Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by C. H. Finley and H. P. Hilliard Receivers, and C. H. Finley and H. P. Hilliard, Receivers—Greeting:

You are hereby cited and admonished to be and appear in the United States Circuit Court of Appeals for the Eighth Circuit, at the City of St. Louis, Missouri, sixty days from and after the day this Citation bears date, pursuant to a writ of error, filed in the Clerk's office of the District Court of the United States for the Western District of Arkansas, wherein United Mine Workers of America, et al, are plaintiffs in error, and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiffs in error, as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done the parties in that behalf.

Witness, the Honorable James D. Elliott, Judge of the District Court of the United States for the Western District of Arkansas by Assignment, this 21st day of March, in the year of our Lord one thousand nine hundred and Eighteen.

JAS. D. ELLIOTT,
Judge United States District Court for the Western District of Arkansas, by Assignment.

Service of the within and foregoing citation is this day waived by the plaintiffs. This the 25th day of March, 1918.

HENRY S. DRINKER, JR.,
JAMES B. McDONOUGH,
Attorneys for the Plaintiffs Below.

Endorsed: Filed in the District Court on March 25, 1918.

---

2 (Writ of Error and Clerk's Return.)

United States of America—ss.

The President of the United States of America, To the Honorable Judges of the District Court of the United States for the Western District of Arkansas—Greeting:

Because, in the records and proceedings, as also in the rendition of the judgment of a plea which is in the said District Court, before you, at the June Term, 1917, thereof, between Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache-Denmen Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by C. H. Finley and H. P. Hilliard Receivers, and C. H. Finley and H. P. Hilliard, Receivers, Plaintiffs, and United Mine Workers of America, District No. 21 of the United Mine Workers of America, John P. White, P. R. Stewart, Fred Holt, John P. White as President of the United Mine Workers of America, P. R. Stewart as President of the United Mine Workers of America, District No. 21, William McLaughlin, William McLaughlin as President of United Mine Workers of America District No. 21, Tom King, Tom King as Board Member of United Mine Workers of America, Jess Edwards, Charley Farley, Edward Cunningham, Edward Cunningham as President of District No. 21 United Mine Workers of America, Frank J. Hayes, Frank J. Hayes as Vice-President of United Mine Workers of America, William Green, William Green as Secretary-Treasurer of the United Mine Workers of America; Joe Overman, O. A. Brooke, Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charles Hendricks, Jim Lee, Jake Thompson, George Burnett, Pink Dunn, Jim McNamara, Pete McMullen, John Mastell, James Slankard, Local Union No. 340, United Mine Workers of America, Local Union No. 374, United Mine Workers of America, Local Union No. 560, United Mine Workers of America, Local Union No. 586, United Mine Workers of America, Local Union No. 1130, United Mine Workers of America, Local Union No. 1159, United Mine Workers of America, Local Union No. 1526, United Mine Workers of America, Local Union No. 1530, United Mine Workers of America, Local Union No. 1565, United Mine Workers of America, Local Union No. 1810, United Mine Workers of America, Local Union No. 1814, United Mine Workers of America; Local Union No. 1824, United Mine Workers of America, Local Union No. 1842, United Mine Workers of America, Local Union No. 1912, United Mine Workers of

America, Local Union No. 1934, United Mine Workers of America, Local Union No. 2027, United Mine Workers of America, Local Union No. 2053, United Mine Workers of America, Local Union No. 2110, United Mine Workers of America, Local Union No. 2160, United Mine Workers of America; Local Union No. 2316, United Mine Workers of America, Local Union No. 2494, United Mine Workers of America, Local Union No. 2766, United Mine Workers of America, Local Union No. 2769, United Mine Workers of America, Local Union No. 2770, United Mine Workers of America, Local Union No. 2772, United Mine Workers of America, Local Union No. 2841, United Mine Workers of America, Local Union No. 2880 United Mine Workers of America, M. B. Appleby, Bruce Jordan, Whit Miller, Ed
2a Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Joe Coneoda, B. Trout, Joe Assola, Joe Kervillas, Wm. Rodden, Charles Blackburn, Joe Lanier, Albert Hunter, Rich Handlin, Scott Adkins, Frank Petty, Claud Litchford, John Litchford, Otto Alimen, Carey Crumpton, Sam Wooten, Marion Hulsey, Maje Hulsey, Tom Watson, Derwood Warren, Harry Birkett, William Congo, Leslie Congo, Bud Congo, Charles McKown, J. W. Howard, Bud Williams, (Col), Wm. Price, Peter McMullen, Jr., John Murray, John T. W. Davis, Brock Smith, (Col), Ed Kehee, Defendants, Numbered 553 at Law, a manifest error hath happened, to the great damage of the said United Mine Workers of America and other defendants as by their complaint appears.

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States Circuit Court of Appeals, for the Eighth Circuit, together with this writ, so that you have the said records and proceedings aforesaid at the City of St. Louis, Missouri, and filed in the office of the Clerk of the United States Circuit Court of Appeals, for the Eighth Circuit, on or before the 16th day of May, 1918, to the end that the record and proceedings aforesaid being inspected, the United States Circuit Court of Appeals may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States, should be done.

Witness, the Honorable Edward D. White, Chief Justice of the United States, this 19th day of March, in the year of our Lord one thousand nine hundred and eighteen.

Seal
U. S. Dist. Court,
West. Dist. of Ark.

Issued at office in the City of Fort Smith, Arkansas, with the seal of the District Court of the United States for the Western District of Arkansas, and dated as aforesaid.

WM. S. WELLSHEAR,
Clerk District Court United States,
Western District of Arkansas.

Allowed by:
Jas. D. Elliott,
Judge, By Assignment.

Endorsed: Filed in the District Court on March 23, 1918.

---

3 Return to Writ.

United States of America,
Western District of Arkansas—ss.

In obedience to the command of the within Writ, I herewith transmit to the United States Circuit Court of Appeals for the Eighth Circuit, a duly certified transcript of the record and proceedings in the within entitled case, with all things concerning the same.

Seal
U. S. Dist. Court,
West. Dist. of Ark.

In Witness Whereof, I hereunto subscribe my name and affix the seal of said United States District Court, for the Western District of Arkansas, at office in the City of Fort Smith, Arkansas, this 26th day of April, A. D. 1918.

WM. S. WELLSHEAR,
Clerk District Court of the United States,
Western District of Arkansas.

---

4 District Court of the United States, Western District of Arkansas, Fort Smith Division.

Coronado Coal Company, et al, Plaintiffs,
No. 553. vs. Law.
United Mine Workers of America, et al, Defendants.

Record of proceedings in the District Court of the United States for the Western District of Arkansas, Fort Smith Divi-

sion, in the above entitled cause, which was begun on the first day of September, 1914, and proceeded to final judgment at the June Term, 1917, with supplemental orders at the January Term, 1918.

During the progress thereof papers and pleadings were filed and proceedings had as hereinafter set forth, viz:

5 Complaint.

Filed in U. S. District Court September 1, 1914.

In the District Court for the Western District of Arkansas, Fort Smith, Division.

Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Mining Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by F. Bache, Receiver, and F. Bache, Receiver, Plaintiffs,

vs.

United Mine Workers of America, P. R. Stewart, Fred Holt, John P. White, as President of United Mine Workers of America, P. R. Stewart, as President of United Mine Workers of America of District No. 21, James Mullen, National Executive Board member United Mine Workers of America, William McLaughlin, William McLaughlin, as President United Mine Workers of America of District No. 21, Tom King, Tom King as Board member of United Mine Workers of America, Jess Edwards, Charley Farley, Edward Cunningham, and Edward Cunningham as President of District No. 21, United Mine Workers of America, Frank J. Hayes and Frank J. Hayes as Vice President of the United Mine Workers of America, William Green and William Green as Secretary-Treasurer of the United Mine Workers of America, Joe Overman, O. A. Brooke, Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charles Hendricks, Jim Lee, Jake Thompson, George Burnett, Pink Dunn, Jim McNamara, Pete McMullen, John Mastell, James Slankard, Local Union No. 340, United Mine Workers of America, Local Union No. 374, United Mine Workers of America, Local Union No. 560, United Mine Workers of America, Local Union No. 586, United Mine Workers of America, Local Union No. 1130, United Mine Workers of America, Local Union No. 1159, United Mine Workers of America, Local Union No. 1526, United Mine

Workers of America, Local Union No. 1530, United Mine Workers of America, Local Union No. 1565, United Mine Workers of America, Local Union No. 1810, United Mine Workers of America, Local Union No. 1814, United Mine Workers of America, Local Union No. 1824, United Mine Workers of America, Local Union No. 1842, United Mine Workers of America, Local Union No. 1912, United Mine Workers of America, Local Union No. 1934, United Mine Workers of America, Lo-
6 cal Union No. 2027, United Mine Workers of America, Local Union No. 2053, United Mine Workers of America, Local Union No. 2110, United Mine Workers of America, Local Union No. 2160, United Mine Workers of America, Local Union No. 2316, United Mine Workers of America, Local Union No. 2494, United Mine Workers of America, Local Union No. 2766, United Mine Workers of America, Local Union No. 2769, United Mine Workers of America, Local Union No. 2770, United Mine Workers of America, Local Union No. 2772, United Mine Workers of America, Local Union No. 2841, United Mine Workers of America, Local Union No. 2880, United Mine Workers of America, M. B. Appleby, Bruce Jordan, Whit Miller, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Joe Coneoda, B. Trout, Joe Assola, and many other defendants too numerous to name, Defendants.

Come the plaintiffs above named, and for cause of action against the defendants above named, state as follows:

In the case of Coronado Coal Company, et al, vs. The Sebastian County Coal Company, et al, No. 246 Eq., pending on the equity side in this court, F. Bache was appointed as a Receiver of all of the companies named as plaintiffs herein. The said Receiver filed the bond required by law, and by the order of the court, and immediately took possession of all of the property and assets of said companies. The said companies are corporations, and all of their property and assets are now in the hands of F. Bache, as Receiver, having been formerly appointed as said Receiver of said companies by the United States District Court, Western District of Arkansas, Fort Smith Division.

Before the filing of the bill in equity in this court in the cause in which said F. Bache was appointed as Receiver and prior to the 17th day of July, 1914, the plaintiffs who were operating coal companies, to-wit: The Hartford Coal Company, the Mammoth Vein Coal Company, the Coronado Coal Company,

and the Prairie Creek Coal Mining Company were engaged in
interstate commerce. The said companies had been
7 and were engaged in the mining of coal and in shipping
and selling the same into various states of the United States, selling and transporting said coal among others to the States of Oklahoma, Texas, and Missouri, and other states. The larger part of the business of said coal companies was interstate commerce being commerce between the states of the United States. The said coal companies owned coal mines for the purpose of mining coal in order to sell the same and they did sell the same in the various states of the United States, and said coal companies have for a number of years been engaged in interstate commerce.

On and before July 17th, 1914, the Mammoth Vein Coal Mining Company was operating what is known as Mine No. 4 near Prairie Creek, Sebastian County, Arkansas. All of the other operating coal companies for which F. Bache was appointed Receiver were prior thereto either engaged in selling coal among the states of the Union or were interested in the coal company that was engaged in interstate commerce. About the first of April, 1914, the Mammoth Vein Coal Mining Company began the operation of said Mine No. 4 upon what is known as the "open shop" plan. On April 6th, 1914, the defendants named above and others to the plaintiffs unknown conspired together to injure and destroy said Mine No. 4, and other property belonging to said coal companies, as more particularly hereinafter set out.

Again on July 17th, 1914, the said defendants and others to the plaintiffs unknown also destroyed said Mine No. 4 and other mines belonging to the coal companies above named.

The defendant, the United Mine Workers of America is a voluntary association, composed of a large number of miners of coal. John P. White, is the President of said United Mine
Workers of America, and the said association of the
8 United Mine Workers of America is divided into districts in the United States. One District, being District No. 21 includes the States of Texas, Oklahoma and Arkansas. Within said states there are various members of the said United Mine Workers of America being united or formed into what is known as local unions. The local unions above named as defendants are local unions, and members of said United Mine Workers of America and they are located in the State of Arkansas. Each local union has a president and secretary upon whom service of process may be had. The said United Mine Workers of America is composed of a very large number

of persons, and it is impossible to make each one a party defendant to this cause. The said United Mine Workers of America is represented in its District No. 21 by P. R. Stewart, formerly President and William McLaughlin, a Board member or President and Edward Cunningham as Vice President or President, Tom King, a Board member, and James Mullen, a National Executive Board member, and also Frank L. Hayes as Vice President and William Green, as Secretary-Treasurer. The said James Mullen is the agent of said United Mine Workers of America, for the transaction of business for said association in the State of Arkansas. The defendant John P. White, President of the said United Mine Workers of America does not live in the State of Arkansas, but the said James Mullen, who is the representative of the said United Mine Workers of America in Arkansas, lives at the town of Midland, and the plaintiff alleges that service of process may be had upon him as upon the said United Mine Workers of America.

The local unions named in the caption herein are local unions located in the State of Arkansas, and are members of said United Mine Workers of America. Some of the other defendants named are members of the said United Mine
9 Workers of America, and some of the other defendants are not members of the said United Mine Workers of America, but co-operated with the said United Mine Workers of America in the said unlawful conspiracy in restraint of the interstate commerce hereinafter set out. The other defendants who are not members of the said United Mine Workers of America were and are sympathizers and co-operators with the United Mine Workers of America in the conspiracy hereinafter set out, and entered into the said conspiracy of said United Mine Workers of America as hereinafter alleged and became conspirators therein.

On April 1st, 1914, the plaintiffs, Coal Companies had made preparations to do a large and profitable coal business with the consumers of coal and dealers in coal in other states of the union. The said United Mine Workers of America is an unlawful organization, being a combination in the form of a trust or conspiracy in the restraint of commerce among the several states. The said United Mine Workers of America is an unlawful organization for the further reason that it attempts to control and does control practically all of the labor engaged in the digging of coal in the States of Texas, Arkansas, Oklahoma, and other states, contrary to the laws of the United States regulating commerce. The plaintiffs allege that at least 90 per cent of the labor engaged in the coal business in said states and in other states of the United

States is labor that is controlled by said United Mine Workers of America, in violation of the anti-trust law of the United States. Under the plans, contracts, and unlawful agreements of said United Mine Workers of America, no man can engage in the mining of coal as a laborer unless he is a member of the said United Mine Workers of America, or unless he becomes such member immediately after his
10 engaging in laboring in the digging of coal. That is by reason of the contract between said United Mine Workers of America, and the coal operators, no laborer can dig coal unless he promises to join as soon as he begins to dig coal. The object and purpose of said United Mine Workers of America is to control absolutely all the labor engaged in the coal business in the states above named, and in many other states of the United States, and the United Mine Workers of America does control the labor so engaged, as above set forth.

The Mammoth Vein Coal Mining Company on April 6th, 1914, and prior thereto, and afterwards did not have a contract with the United Mine Workers of America and began the mining of coal for the purpose of selling the same in interstate commerce with what is known as non-union labor or the "open shop" plan. The said Mammoth Vein Coal Mining Company offered employment to all laborers, regardless of whether they were members of the United Mine Workers of America. The local unions of the United Mine Workers of America above named are located in Arkansas, and the larger part of them are located in the town of Huntington, Arkansas, Hartford, Arkansas, Midland, Arkansas, Prairie Creek Arkansas, Hackett City, Arkansas, and Jenny Lind, Arkansas, and other places in Sebastian County being in the coal mining region of said county. The said United Mine Workers of America and the other defendants named above and especially Joe Overman, O. A. Brooke, and Dr. W. C. Chambers on April 6th, 1914, entered into an unlawful conspiracy to restrain the commerce between the states, the object and purpose of said conspiracy being with force and arms to prevent the Mammoth Vein Coal Mining Company and its associated companies from operating the mines upon the "open shop" or non-union plan. The said de-
11 fendants, co-operating with them, whose names are unknown to the plaintiffs, with force and arms entered upon the property of the Mammoth Vein Coal Mining Company, on April 6th, 1914, and damaged the same by driving and running away its employees, assaulting and beating them, dismantling its property, and permitting water to ac-

cumulate therein, thus damaging said Mammoth Vein Coal Mining Company in the sum of $20,000.00. The said Mammoth Vein Coal Mining Company was thereby injured in its business and property by the defendants by reason of their unlawful conspiracy above described, which conspiracy was in restraint of commerce an dtrade among the states.

Further complaining, the plaintiffs state that the other parties co-operating with them, and whose names are to the plaintiffs unknown continued in the unlawful interference with and restraint of trade and commerce among the states, and continuously down to the present time are engaged in said unlawful conspiracy in restraining trade and commerce, among the states, and at various times used acts of violence in carrying out said conspiracy against the plaintiffs herein to prevent the Mammoth Vein Coal Mining Company and its associated companies from operating upon the non-union plan.

The plaintiffs further allege that on July 17th, the said defendants and others co-operating with them unlawfully and for the purpose of accomplishing their said conspiracy in restraint of trade and commerce unlawfully and with force and arms entered upon the property of the plaintiffs used in interstate commerce, including Mine No. 3, the Dallas Mine, and other mines and properties, and Mine No. 4, and destroyed the same with fire and dynamite and destroyed other mines belonging to the other coal companies and greatly damaged the same to the great injury and damage of the plaintiffs in the total sum of $427,820.77.

12 The plaintiffs allege that said damages and injury are itemized as follows, including the damage of April 6th, 1914, and of July 17th, 1914, to-wit:

Hartford Coal Company

Property damage outside	$ 1,000.00
Inside damage	16,000.00
Loss of profits 10 mos.	25,440.00
	$42,440.00

Mammoth Vein Coal Mining Company

Mine No. 1

Property damage outside	40,000.00
Inside damage	20,000.00
Loss of profits 10 mos.	11,200.00
Dead royalty	2,000.00

Mine No. 3		
Property damage outside	3,000.00	
Inside damage	12,000.00	
Mine No. 4		
Property damage outside	30,000.00	
Inside damage	37,000.00	
Loss of profits 10 mos.	22,400.00	177,600.00
Mammoth Vein Coal Company		
Mine No. 6		
Inside damage	10,000.00	
Loss of profits 10 mos.	18,880.00	
Royalty credit	2,175.00	
Loss of house rents	2,312.00	
Mine No. 1		
Loss of profits 10 mos.	21,760.00	
		55,127.00
Coronado Coal Company		
Property damage outside	32,000.00	
Inside damage	37,000.00	
Loss of profits 9 mos.	27,780.00	
Loss of house rents	1,134.00	
		97,914.00
Prairie Creek Coal Mining Company		
Loss of profits 10 mos.	34,240.00	
Dead rents	8,015.77	
Loss of house rents	3,384.00	
		45,639.77
Mammoth Vein Royalty Company		
Loss of royalties	4,000.00	4,000.00
Sebastian County Coal Company		
Loss of royalties	5,100.00	5,100.00
Total		427,820.77

13 The said conspiracy of the defendants was an unlawful contract combination and conspiracy in restraint

of trade and commerce among the several states of the United States in violation of the Anti-Trust Act of Congress of July 2, 1890. The said plaintiffs, as above shown, by reason of said unlawful combination and conspiracy of the defendants, and each of them were damaged and injured in their business and property in the total sum of $427,820.77. The plaintiffs by reason of the provisions of said Act of Congress, of July 2, 1890, are entitled to recover of and from the defendants, and each of them the penalty prescribed by said Act of Congress, which is three times the actual value of the property injured, and destroyed. The said plaintiffs are, therefore, entitled to recover from the defendants and each of them the total sum of One Million, Two Hundred Eighty-three thousand, four hundred sixty-two dollars and thirty-one cents ($1,283,462.31) and all costs and reasonable attorneys fees, as provided in said Act of Congress.

The plaintiffs allege that the said United Mine Workers of America and each member thereof and the other defendants above named and each local above named entered into said unlawful conspiracy above described, and destroyed said property in violation of said Act of Congress, and in violation of the plaintiffs' right and to the great damage and injury of the plaintiffs, as above set forth.

The individual defendants named above were either members of the said United Mine Workers of America or they co-operated with said United Mine Workers of America in the destruction of plaintiffs' property in violation of said law as above alleged. The said voluntary association as an association endorsed the destruction of said property,
14 and the local unions and the officers and members of District No. 21 fully endorsed the action of the unions, and the action of the United Mine Workers of America in destroying said property and injuring the plaintiffs in violation of said law of theUnited States.

The plaintiffs allege that the said United Mine Workers of America has no property known to the plaintiffs except the funds which it has to its credit in the American National Bank of Fort Smith, Arkansas, and the dues which are paid to it by said United Mine Workers of America by the members thereof, which dues are paid through the coal operators and in Arkansas are paid through the Western Coal & Mining Company, the Central Coal & Coke Company, the Bolen-Darnall Coal Company, the Branner Coal Company, and other coal companies operating in the State of Arkansas and other states. The said United Mine Workers of America

have entered into a contract with the coal operators in District No. 21, and under that contract there will be due and paid to said United Mine Workers of America in said District No. 21 and in other states, especially the States of Kansas and Oklahoma large sums of money. A part of said funds belonging to said United Mine Workers of America is now in the American National Bank of Fort Smith, Arkansas, but it is not known whether said money is in said bank under that or some other name, and large sums will also be due from the coal companies above named, to-wit: The Central Coal & Coke Company, the Western Coal & Mining Company, the Bolen-Darnall Coal Company, the Branner Coal Company, and other coal companies. And these plaintiffs have no other means of having any judgment which they may obtain against the defendants satisfied other than having said sums of money attached and garnished and impounded in the hands of said coal companies and said bank. The said
15 defendants are about to remove and will remove a material part of their property out of said state, not leaving enough therein to satisfy the claim of the said plaintiffs, and therefore said plaintiffs ask an attachment against said funds and ask that a writ of garnishment herein be issued against the American National Bank of Fort Smith, Arkansas, and the Western Coal & Mining Company, the Central Coal & Coke Company, the Bolen-Darnall Coal Company, and the Branner Coal Company, and such other parties as plaintiffs may show to have in their hands money and property belonging to said defendants. The plaintiffs ask that each of said defendants, and such others as may be suggested be served with said writ of garnishment and attachment, and that the said garnishees be required to answer herein, and plaintiffs herewith tender a good and sufficient bond and also tender said affidavit required by law for said writs of garnishment and attachment.

Premises considered, the plaintiffs pray judgment against the said United Mine Workers of America and each of the defendants in the sum of One Million, Two Hundred Eighty-three Thousand, Four hundred sixty-two dollars and thirty-one cents, and all costs and reasonable attorneys fees herein.

Second Count.

For further cause of action against the defendants, the plaintiffs herein allege the facts as set forth in the first count above, and further state that the said unlawful conspiracy, formed by the said defendants, as set forth in said first count which is made a part hereof was formed unlawfully and will-

fully, and with the unlawful and willful purpose and design of preventing the plaintiffs from operating their mines, and of injuring and destroying, as shown above. The said
16 plaintiffs were damaged by reason of said conspiracy in the sum of $427,820.77, and said plaintiffs are entitled to recover that sum as actual damages, and are entitled to recover the further sum of double that amount as punitive damages, or a total sum of $1,283,462.31.

Premises considered, the plaintiffs pray judgment against the defendants for said sum of $1,283,462.31 and all costs herein laid out and expended and for reasonable attorneys fees.

READ & McDONOUGH
Attorneys for Plaintiffs.

Affidavit.

I, F. Bache, on oath state that I am the Receiver referred to in the above and foregoing complaint, and that the matters and things set forth in the above complaint are true to the best of my knowledge and belief.

Affiant further states in support of the application of the plaintiffs for order of attachment and writs of garnishment herein as follows:

First: The plaintiffs' claim is due for the destruction by the defendants of the plaintiffs' property as described in the complaint, and for treble damages as provided in the Anti-Trust Act of Congress. The property of the plaintiffs was destroyed unlawfuly, willfully, and knowingly by the defendants.

Second: The said claim is just and plaintiffs are entitled to recover the amount claimed in the above and foregoing complaint. The amount which this affiant believes that plaintiffs ought to recover is set forth in the complaint, and
17 is the sum of $1,283,462.31.

And the affiant further states that the defendants are about to remove and have removed a material part of their property out of the State of Arkansas, and not leaving enough therein to satisfy the claim of the plaintiffs.

F. BACHE

Subscribed and sworn to before me this 1st day of September, 1914.

BEN D. KIMPEL

(Notarial Seal)

My Com. exp. Nov. 10, 1914.

18 (Bond on Attachment.)

Filed in U. S. District Court September 1, 1914.

19 We, the undersigned, undertake that the plaintiffs in the above entitled cause shall pay to the defendants in the above entitled cause shall pay to the defendants and to each of them all damages which they or either of them may sustain by reason of the attachment in this action if the order therefor is wrongfully obtained.

Sept. 1st, 1914.

F. BACHE, Receiver for Plaintiffs.
(Corporate Seal) UNITED STATES FIDELITY & GUARANTY CO.
By Milton P. Boyd
Its Atty in fact.

---

20 (Writ of Attachment issued September 1, 1914 and Marshal's Return.)

Filed in the U. S. District Court October 28, 1914.

The President of the United States of America,
To the Marshal of the Western District of Arkansas:

You are commanded to attach and safely keep the property of the United Mine Workers of America, United Mine Workers of America District 21, and local unions of the same, to-wit: 340, 374, 560, 586, 1130, 1159, 1526, 1530, 1565, 1810, 1814, 1824, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2316, 2494, 2766, 2769, 2770, 2772, 2841 and 2880, in your District not exempt from execution, or so much thereof as will satisfy the claim of Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Mining Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by F. Bache, Received, and F. Bache, Receiver, the plaintiffs in this action, for $1,283,462.31, and $30.00 for the costs thereof, and to summon the American National Bank and such other persons as plaintiffs may suggest as Garnishees, to answer this action on the
21 first day of the next January 1915 Term of said Court, and make due return of this writ.

In Witness Whereof, Honorable Frank A. Youmans, Judge of the District Court of the United States for the Western District of Arkansas, has caused the seal of said District Court to be hereto affixed this 1st day of September, 1914.

(Seal of Court) WM. S. WELLSHEAR, Clerk.

Fort Smith, Ark. Sept. 1, 1914.

I certify that I have executed this writ by delivering a true copy thereof to T. W. M. Boone, President of the American National Bank at Fort Smith, Ark. on this the 1st day of Sept. 1914.

J. H. PARKER, U. S. Marshal.
By W. T. Calloway, Deputy.

---

22 Writ of Garnishment issued September 1, 1914, and Return.

Filed in U. S. District Court October 28, 1914.

United States of America,
Western District of Arkansas.

The United States of America, to the Marshal of the Western District of Arkansas,—Greeting:

Whereas, Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Mining Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by F. Bache, Receiver, and F. Bache, Receiver, Plaintiffs, have this day filed a complaint in the District Court of the United States for the Western District of Arkansas, Fort Smith Division, against United Mine Workers of America, et al, alleging that there is due to said plaintiffs the sum of $1,283,462.31, damages, together with costs in this cause to be expended.

Whereas, it is alleged by the said plaintiffs that they have reason to believe that the American National Bank of Fort Smith, Arkansas, has in its hands and possession, goods, chattels, moneys, credits and effects, belonging to the defendants, United Mine Workers of America, United Mine Workers of America District 21, and local unions of the same, to-wit: 340, 374, 560, 586, 1130, 1159, 1526, 1530, 1565, 1810, 1814, 1824, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2316, 2494, 2766, 2769, 2770, 2772, 2841 and 2880.

Now, therefore, you are hereby commanded to summon
23 the said American National Bank to appear before said District Court on the first day of its next regular term, to be held on the second Monday in January next, then and there to answer of the goods, chattels, moneys, credits and effects it may have in its hands or possession, belonging to said defendants United Mine Workers of America, United Mine Workers of America District 21, and local unions of the same set forth in the paragraph hereof first above, to satisfy the claim alleged to be due in said complaint; and also to answer such further interrogatories as may be exhibited against it, and that you make due return of this writ to our said court.

Witness the Honorable Frank A. Youmans, Judge of the District Court of the United States for the Western District of Arkansas, and the seal thereof hereto affixed, this September 1, 1914.

(Seal of Court) Attest: WM. S. WELLSHEAR, Clerk.

Fort Smith, Ark. Sept. 1, 1914.

I certify that I have executed this writ by delivering a true copy to T. W. M. Boone, President of American National Bank at Ft. Smith, Ark. on this the 1st day of September 1914.

J. H. PARKER, U. S. Marshal.
By W. T. Calloway, Deputy.

---

24 (Writ of Attachment issued September 1, 1914, and Marshal's Return.)

Filed in the U. S. District Court, October 28, 1914.

The President of the United States of America, To the Marshal of the Western District of Arkansas:

You are commanded to attach and safely keep the property of the United Mine Workers of America, United Mine Workers of America District 21, and local unions of the same, to-wit: 340, 374, 560, 586, 1130, 1159, 1526, 1530, 1565, 1810, 1814, 1824, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2316, 2494, 2766, 2769, 2770, 2772, 2841 and 2880, in your District not exempt from execution, or so much thereof as will satisfy the claim of Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Mining Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Company, Mammoth Vein

Royalty Company, Prairie Creek Coal Mining Company, each and all by F. Bache, Receiver, and F. Bache, Receiver, the plaintiffs in this action, for $1,283,462.31, and $30.00 for the costs thereof, and to summon the Western Coal & Mining Company, Central Coal & Coke Company, Bolen-Darnall Coal Company and Branner Coal Company, and such other persons as plaintiffs may suggest as Garnishees, to answer this action on the first day of the next January 1915 Term of said court, and make due return of this writ.

In Witness Whereof, Honorable Frank A. Youmans, Judge of the District Court of the United States for the Western District of Arkansas, has caused the seal of said District Court to be hereto affixed this 1st day of September, 1914.

(Seal of Court) WM. S. WELLSHEAR, Clerk.

Fort Smith, Ark. Sept. 2nd, 1914.

I certify that I have served this Writ of Attachment on the Western Coal & Mining Co. and the Central Coal and Coke Co. by delivering a true copy to Ira D. Oglesby, State Agent for service for each of the above named Companies at Fort Smith, Ark. on the 2nd day of Sept. 1914.

J. H. PARKER, U. S. Marshal.
By V. Anderson, Deputy.

Fort Smith, Ark. Sept. 10th, 1914.

I certify that I have served this Writ of Attachment on the Bolen-Darnall Coal Co. by delivering a true copy to A. W. Brackenridge, Supt. for said Company at Hartford, Ark. on the 4th day of Sept. 1914.

On the Branner Coal Company by delivering a true copy to Jerry Cravens, Supt. for said Company at Hackett, Ark. on the 10th day of September 1914.

J. H. PARKER, U. S. Marshal.
By T. N. Black, Deputy.

26 Summons Issued September 1, 1914, and Return Filed in U. S. District Court October 28, 1914.

United States of America
Western District of Arkansas
Fort Smith Division

The President of the United States of America, to the Marshal of the Western District of Arkansas:

You are commanded to summon United Mine Workers of America, P. R. Stewart, Fred Holdt, John P. White, as President of United Mine Workers of America, P. R. Stewart, as President of United Mine Workers of America of District No 21 James Mullen, National Executive Board member United Mine Workers of America, William McLaughlin, William McLaughlin, as President United Mine Workers of America of District N. 21, Tom King, Tom King as Board member of United Mine Workers of America, Jess Edwards, Charley Farley Edward Cunningham, and Edward Cunningham as President of District No. 21, United Mine Workers of America, Frank J. Hayes and Frank J. Hayes as Vice President of the United Mine Workers of America, William Green and William Green as Secretary-Treasurer of the United Mine, Workers of America, Joe Overman O. A. Brooks, Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charles Hendricks, Jim Lee, Jake Thompson, George Burnett, Pink Dunn, Jim McNamara, Pete McMullen, John Mastell, James Slankard, Local Union No. 340, United Mine Workers of America, Local Union No. 374, United Mine Workers of America, Local Union No. 560, United Mine Workers of America, Local Union No. 586, United Mine Workers of America, Local Union No. 1130, United Mine Workers of America Local Union No. 1159, United Mine Workers of
27 America, Local Union No. 1526,United Mine Workers of America, Local Union No. 1530, United Mine Workers of America, Local Union No. 1565, United Mine Workers of America, Local Union No. 1810, United Mine Workers of America, Local Union No. 1814, United Mine Workers of America, Local Union No. 1824, United Mine Workers of America, Local Union No. 1842, United Mine Workers of America, Local Union No. 1912, United Mine Workers of America, Local Union No. 1934, United Mine Workers of America, Local Union No. 2027, United Mine Workers of America, Local Union No. 2053, United Mine Workers of America, Local Union No. 2110, United Mine Workers of America, Local Union No. 2160, United Mine Workers of America, Local Union No. 2316, United Mine Workers of

America, Local Union No. 2494, United Mine Workers of America, Local Union No. 2766, United Mine Workers of America, Local Union No. 2769, United Mine Workers of America, Local Union No. 2770, United Mine Workers of America, Local Union No. 2772, United Mine Workers of America Local Union No. 2841, United Mine Workers of America, Local Union No. 2880, United Mine Workers of America, M. B. Appelby, Bruce Jordan, Whit Miller, Ed. Baker, H. S. Treadway, G. G. Daniels John Turnipseed, Lewis. Evans, Joe Coneoda, B. Trout, Joe Assola, and many other defendants too numerous to name, to answer on the first day of the next January 1915 term of the District Court of the United States, for the Western District of Arkansas, Fort Smith Division, a complaint filed against the in said Court by Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Mining Company, Bache-Denman Coal Com-
28 pany, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by F. Bache Receiver, and F. Bache, Receiver and warn them that upon their failure to answer, the complaint will be taken for confessed; and you will make due return of the summon on the first day of the next January 1915 Term of said Court.

In witness Whereof, Honorable Frank A. Youmans, Judge of the District Court of the United States, Western District Court of the United States, Western District of Arkansas, has caused the seal of said court to be hereto affixed this 1st day of September, A. D. 1914.

(Seal of Court) Wm. S. WELLSHEAR, Clerk.

United States of America
Western District of Arkansas.

Received this Summons at Fort Smith, Ark. on the 1st day of September 1914 and served the same on P. R. Stewart on Sept. 2nd 1914 at Fort Smith, Ark. by delivering to him a true copy; on James Mullen, National Executive Board member, by delivering a true copy to Mrs. James Mullen, his wife and an adult person at his usual place of abode at Midland, Ark. on the 4th day of Sept. 1914; on Willam McLaughlin, by delivering to him a true copy at Hunington, Ark. on Sept. 21, 1914; on Tom King, as Board member of United Mine Workers of America, by delivering to him a true copy at Bonanza, Arkansas on Sept. 10th 1914; on Jess Edwards, Sept.

4th at Hartford, Ark. by delivering to him a true copy; on Charley Farley, by delivering a true copy to Mrs. Charley Farley, his wife and an adult person at his usual place
29 of abode at Hunington, Ark. on September 22nd, 1914; on Edward Cunningham as President of District No. 21, United Mine Workers of America, by delivering to him a true copy at Midland, Ark. on Sept. 21, 1914; on William Green, Secty-Treasurer of the United Mine Workers at Hartford, Ark. by delivering a true copy to Mrs. William Green his wife and adult person at his usual place of abode on Sept. 8, 1914; on Joe Overman, by delivering a true copy to Mrs. Joe Overman, his wife and an adult person at his usual place of abode at Midland, Ark. on Sept. 9, 1914; on O. A. Brooks, by delivering to him a true copy at Hartford Ark. on Sept. 4th, 1914; on Dr. W. C. Chambers, by delivering to him a true copy at Hartford, Ark. on Sept 4th, 1914; on Tom Kiger, by delivering to him a true copy at Huntington, Ark. on Sept. 9th, 1914; on Mike Cisco by delivering a true copy to Mrs. Mike Cisco, his wife and an adult person at his usual place of abode at Huntington, Ark. on Sept. 22nd, 1914; on Charles Hendricks by delivering a true copy to Mrs. Charles Hendricks his wife and an adult person at his usual place of abode at Hartford, Ark. on the 5th day of September 1914; on Jim Lee by delivering a true copy to Mrs. Jim Lee, his wife and an adult person at his usual place of abode at Midland, Ark. on the 9th day of Sept. 1914; on George Burnett, by delivering a true copy to Mrs. George Burnett his wife and an adult person at his usual place of abode at Midland, Ark. on Sept. 9, 1914; on Pink Dunn by delivering to him a true copy at Midland, Ark, on Sept. 9th, 1914; on Pete McMullen by delevering a true copy to Mrs. Pete McMullen, his wife and an adult person at his usual place of abode at Midland, Ark. on Sept. 9, 1914; John Mastell by delivering a true copy to Mrs. John Mastell, his wife and an adult person at his usual place of abode at Prairie Creek, Ark. on Sept. 8, 1914; on James Slankard by delivering to him a true copy at Fort
30 Smith, Ark. on Sept. 16, 1914; on Local Union No. 340 United Mine Workers of America by delivering a true copy to M. B. Appleby at Midland, Ark. Sept. 9, 1914; on Local No. 374 A. S. Crossly, Secty. by delivering a true copy to Mrs. A. S. Crossly, his wife and an adult person at his usual place of abode at Hartford, Ark. Sept. 8th, 1914; on Local Union No. 560, G. W. Ray, Secty. by delivering a true copy to Mrs. G. W. Ray, his wife and an adult person at his usual place of abode at Hackett, Ark. on Sept. 10, 1914; on Local Union No. 586, Ed Brandon, Secty. by delivering a true copy to Mrs. Ed. Brandon, his wife and an adult person

at his usual place of abode at Huntington, Ark. Sept. 9. 1914; on Local Union No. 1130, Pat Moran Secty. by delivering to him a true copy at Hackett, Ark. Sept. 10th, 1914; on Local Union No. 1526, Jack Borne, Secty, by delivering a true copy to Mrs. Jack Borne, his wife and an adult person at his usual place of abode at Hartford, Ark. Sept, 7th, 1914; on Local Union No. 1530, Arthur Blakley Secty. by delivering a true copy to Mrs. Arthur Blakley his wife and an adult person at his usual place of abode at Hartford, Ark. Sept. 5, 1914; on Local Union No. 1565, H. S. Treadway, Secty, by delivering to him a true copy at Prairie Creek, Ark. Sept. 8th. 1914; on Local Union No. 1810, F. L. Johnson, Secty. by delivering a true copy to Mrs. F. L. Johnson, his wife and an adult person at his usual place of abode at Jenny Lind, Ark. Sept 10, 1914; on Local Union No. 1814, Mack Brown, Secty. by delivering a true copy to Mrs. Mack Brown, his wife and an adult person at his usual place of abode at Denning, Ark. Sept. 11, 1914; on Local Union No. 1824, E. Fuller Sect., by delivering a true copy to Mrs. E. Fuller, his wife and an adult person at his usual place of abode at Hartford, Ark. Sept. 8, 1914; on Local Union No. 1912, Tom Goslin, Secty. by delivering a true copy to Mrs. Tom Goslin, his wife and an adult
31 person at his usual place of abode at Hartford, Ark. Sept. 7, 1914; on Local Union No. 1934 M. M. Carter, Secty. by delivering a true copy to Mrs. M. M. Carter his wife and an adult person at his usual place of abode at Hartman, Ark. Sept. 11th, 1914; on Local Union No. 2053, B. F. Mills, Secty. by delivering a true copy to Mrs. B. F. Mills, his wife and an adult person at his usual place of abode at Spadra, Ark. Sept. 11th, 1914; on Local Union No. 2160 Joe O'Brien, Secty. by delivering a true copy to Mrs. Joe O'Brien, his wife and an adult person at his usual place of abode at Coal Hill, Ark. on Sept. 11, 1914; on Local Union No. 2316, John Graham, Secty. by delivering a true copy to Mrs. John Graham, his wife and an adult person at his usual place of abode at Midland, Ark. Sept. 9, 1914; on Local Union No. 2766, J. M. Steward, Secty. by leaving a true copy with Mrs. J. M. Steward, his wife and an adult person at his usual place of abode at Greenwood, Ark. on Sept. 10, 1914; on Local Union No. 2769, Logan Rogers, Secty. by leaving copy with Mrs. Logan Rogers, his wife and an adult person at his usual place of abode at Hartford Ark. Sept. 8, 1914; on Local Union No. 2770, D. M. Griswold, Secty. by leaving copy with Mrs. D. M. Griswold, his wife and an adult person at his usual place of abode at Hartford, Ark. on Sept. 8th, 1914; on Local Union No. 2841, J. E. Flanner Secty. by leaving a true copy with Mrs. J. E Flanner, his wife and an

adult person at his usual place of abode at Mansfield, Ark. on Sept. 9, 1914; on Local Union No. 2880, Roy Crawford, Secty. by leaving a true copy with Mrs. Roy Crawford, an adult person at his usual place of abode at Bonanza, Ark. Sept. 10, 1914; on M. B. Appelby by delivering to him a true copy at Midland, Ark. on Sept. 9, 1914; on Bruce Jordan by delivering a true copy to Mrs. Bruce Jordan, his wife, an adult person at his usual place of abode at Hartford,
32 Ark. 4th, 1914; on Ed. Baker by delivering to him a true copy at Hartford, Ark. on Sept. 8, 1914, on H. S. Treadway by delivering to him a true copy at Prairie Creek, Ark. on Sept. 8, 1914; on G. G. Daniels by delivering a true copy to Mrs. G. G. Daniels, his wife, an adult person at his usual place of abode at 5 miles North Midland, Ark. Sept. 9th, 1914, on John Turnipseed by delivering to him a true copy at Midland, Ark. Sept. 9, 1914; and on Lewis Evans, by delivering a true copy to Mrs. Lewis Evans, his wife and an adult person at his usual place of abode at Hartford, Ark. on September 5, 1914.

J. H. PARKER, U. S. Marshal,
By T. N. Black Deputy.

---

33 (Writ of Attachment issued September 2, 1914, and Marshal's Return.)

Filed in U. S. District Court, October 28, 1914.

The President of the United States of America, To the Marshal of the Western District of Arkansas:

You are commanded to attach and safely keep the property of the United Mine Workers of America, United Mine Workers of America District 21, and local unions of the same to-wit; 340, 374, 560, 586, 1130, 1159, 1526, 1530, 1565, 1810, 1814, 1824, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2316, 2494, 2766, 2769, 2770, 2772, 2841 and 2880, in your District not exempt from execution, or so much thereof as will satisfy the claim of Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Mining Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastain County Coal Company, Mammoth Vein Coal Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company each and all by F. Bache, Receiver, and F. Bache, Receiver, the plaintiffs in this action, for $1,283,462.31, and $30.00 for the costs thereof, and to summon the State Bank of Huntington, Huntington, Arkansas, Bank of Hartford, Hartford, Arkansas, State Bank of Midland, Midland, Arkansas, Hackett City Bank, Hackett, Ar-

kansas, Sebastian County Bank, Greenwood Arkansas,
34 Citizens Bank, Coal Hill, Arkansas, Bank of Clarksville, Clarksville, Arkansas, 1st National Bank, Clarksville, Arkansas, and German-American Bank, Altus, Arkansas, and such other persons as plaintiffs may suggest as Garnishees, to answer this action on the first day of the next January 1915 Term of said court, and make due return of this writ.

In Witness Whereof, Honorable Frank A. Youmans, Judge of the District Court of the United States for the Western District of Arkansas, has caused the seal of said District Court to be hereto affixed this 2nd day of September, 1914.

(Seal of Court) WM. S. WELLSHEAR, Clerk.

Ft. Smith, Ark. Sept. 8th, 1914.

I certify that I have served this Order of Attachment on the German-American Bank of Altus, Ark. by delivering a true copy to L. A. F. Woods, President of said bank at Altus, Ark. on Sept. 7, 1914. On the Bank of Clarksville by delivering a true copy to R. S. Davis, President of said bank at Clarksvlle, Ark. on Sept. 7, 1914. On the First National Bank of Clarksville, by delivering a true copy to A. N. Ragan, Cashier of said bank at Clarksville, Ark. on Sept. 7th, 1914.

J. H. PARKER, U. S. Marshal.
By V. Anderson, Deputy.

Fort Smith, Ark. Sept. 12, 1914.

Received this Writ at Ft. Smith, Ark. on Sept. 2nd 1914 and served the same on the Bank of Hartford, by de-
35 livering a true copy to Carey Holbrook, Cashier of said bank at Hartford, Ark. on Sept. 3, 1914.

On the State Bank of Huntington by delivering a true copy to G. R. Holbrook, Cashier of said bank at Huntington, Ark. on Sept. 3, 1914.

On the State Bank of Midland by delivering a true copy to Jerry Bell, Cashier of said bank at Midland, Ark. on Sept. 3, 1914.

On the Hackett City Bank, by delivering a true copy to W. P. Forbes, Cashier of said bank at Hackett, Ark. on Sept. 3, 1914.

On the Sebastian County Bank by delivering a true copy to W. C. Davis, Cashier of said bank at Greenwood, Ark. on Sept. 3rd, 1914.

On the Citizens Bank by delivering a true copy to A. G. Hill, Cashier of said bank at Coal Hill, Ark. on Sept. 11th, 1914.

J. H. PARKER, U. S. Marshal.
By T. N. Black, Deputy.

---

36 (Writ of Attachment issued September 4, 1914, and Marshal's Return.)

Filed in the U. S. District Court, October 28, 1914.

The President of the United States of America, To the Marshal of the Western District of Arkansas:

You are commanded to attach and safely keep the property of the United Mine Workers of America, United Mine Workers of America District 21, and Local Unions of the same, to-wit: 340, 374, 560, 586, 1130, 1159, 1526, 1530, 1565, 1810, 1814, 1824, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2316, 2494, 2766, 2769, 2770, 2772, 2841 and 2880, in your District not exempt from execution, or so much thereof as will satisfy the claim of Coronado Coal Company, Denman Coal Company, Mammonth Vein Coal Mining Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by F. Bache, Receiver, and F. Bache, Receiver, the plaintiffs in this action, for $1,283,462.31, and $30.00 for the costs thereof, and to summon the First National Bank of Fort Smith, Arkansas, and such other persons as plaintiffs may suggest, as Garnishees, to answer this action on
37 the first day of the next January 1915 Term of said court, and make due return of this writ.

In Witness Whereof, Honorable Frank A. Youmans, Judge of the District Court of the United States for the Western District of Arkansas, has caused the seal of said District Court to be hereto affixed this 4th day of September, 1914.

(Seal of Court) WM. S. WELLSHEAR, Clerk.

Fort Smith, Ark. Sept. 4, 1914.

I certify that I have executed this Writ of Attachment by delivering a true copy to F. A. Handlin, President of the First National Bank at Fort Smith, Ark. on this the 4th day of September 1914.

J. H. PARKER, U. S. Marshal.
By V. Anderson, Deputy.

---

38 Amendment To Complaint.

Filed in U. S. District Court September 16, 1914.

Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by F. Bache, Receiver, and F. Bache, Receiver, Plaintiffs,

vs.

United Mine Workers of America, P. R. Stewart, Fred Holt, John P. White, as President of United Mine Workers of America P. R. Stewart, as President of United Mine Workers of America of District No. 21, James Mullen, National Excutive Board member United Mine Workers of America William McLaughlin, William McLaughlin, as President United Mine Workers of America of District No. 21, Tom King, Tom King, as Board member of United Mine Workers of America, Jess Edwards, Charley Farley, Edward Cunningham, and Edward Cunningham as President of District No. 21 United Mine Workers of America, Frank J. Hayes, and Mine Workers of America, Frank J. Hayes, and Frank J. Hayes as Vice President of the United Mine Workers of America, Joe Overman, O. A. Brooke, Dr. W. C. Chamber, Tom Kiger, Mike Cisco, Charles Hendricks, Jim Lee, Jake Thompson, George Burnett, Pink Dunn, Jim McNamara, Pete McMullen, John Mastell, James Slankard, Local Union No. 340, United Mine Workers of America, Local Union No. 374, United Mine Workers of America, Local Union No. 560, United Mine Workers of America, Local Union No. 586, United Mine Workers of America, Local Union No. 1130, United Mine Workers of America, Local Union No. 1159, United Mine Workers of America, Local Union No. 1526, United Mine Workers of America, Local Union No. 1530, United Mine Workers of America, Local Union No. 1565, United Mine Workers of America, Local Union No. 1810, United Mine Workers of America, Local Union No. 1814, United Mine Workers of America, Local Union No. 1824, United Mine Workers of America, Local Union No. 1842, United Mine Workers of America, Local Union No. 1912, United Mine Workers of America, Local Union No. 1934, United Mine Workers of America, Local Union No. 2027, United Mine Workers of America,

Local Union No. 2053, United Mine Workers of Amer-
39 ica, Local Union No. 2110, United Mine Workers of America, Local Union No. 2160, United Mine Workers of America, Local Union No. 2316, United Mine Workers of America, Local Union No. 2494, United Mine Workers of America, Local Union No. 2766, United Mine Workers of America, Local Unuion No. 2769, United Mine Workers of America, Local Uinon No. 2770, United Mine Workers of America, Local Union No. 2772, United Mine Workers of America, Local Union No. 2841, United Mine Workers of America, Local Union No. 2880, United Mine Workers of America, M. B. Appelby, Bruce Jordan, Whit Miller, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Joe Coneoda, B. Trout, Joe Assola, and many other defendants too numerous to name, Defendants.

Come the plaintiffs, and ask leave of the court to add to the list of defendants herein the following defendants, to-wit:

Joe Kerivillas, William Rodden, Joe Lanier, Charles Blackburn, Joe Kidd, Lee Jones, Henry Doyle, Ed Kehee, Robert Graham, Albert Hunter, Rich Handlin, Scott Adkins, Joe Young, Frank Petty, Claud Litchford, John Litchford, Otto Ailman, James Crumpton, Carey Crumpton, William Price, Midland, Ark., Peter McMillan, Midland, Arkansas, Peter McMillan, Jr., Midland, Arkansas, John Murray, Midland, Arkansas, Sam Wooten, Midland, Arkansas, Marion Hulsey, Midland, Arkansas, Maje Hulsey, Midland, Arkansas, Tom Watson, Midland, Arkansas, Derwood Warren, Midland, Arkansas, Harry Birkett, Midland, Arkansas, Willis Congo, Prairie Creek, Arkansas, Leslie Congo, Prairie Creek, Arkansas, Bud Congo, Prairie Creek, Arkansas, Chas. McKown, Prairie Creek, Arkansas, J. W. Howard, Prairie Creek, Arkansas, Bud Williams, (Col.) Midland, Ark., John T. W. Davis, Prairie Creek, Arkansas, Brock Smith, (Col.) Midland, Arkansas.

The plaintiffs ask that these defendants be incorporated in the original complaint herein, and that summons be issued against each of them and prays judgment against them and each of them, as prayed in the original complaint.

READ & McDONOUGH,
Attorneys for Plaintiffs.

40 Summons issued September 16, 1914, and Return.

Filed in U. S. District Court October 28, 1914.

United States of America
Western District of Arkansas
Fort Smith Division

The President of the United States of America, to the Marshal of the Western District of Arkansas:

You are commanded to summon, Joe Kerivillas, William Rodden, Joe Lanier, Charles Blackburn, Joe Kidd, Lee Jones, Henry Doyle, Ed Kehee, Robert Graham, Albert Hunter, Rich Handlin, Scott Adkins, Joe Young, Frank Petty, Claud Litchford, John Litchford, Otto Aliman, James Crumpton, Carey Crumpton, William Price, Peter McMillan, Peter McMillan, Jr., John Murray, Sam Wooten, Marion Hulsey, Maje Hulsey, Tom Watson, Derwood Warren, Harry Birkett, Bud Williams, (Col.), Brock Smith, (Col.), Midland, Arkansas, and Willis Congo, Leslie Congo, Bud Congo, Chas. McKown, J. W. Howard, John T. W. Davis, Prairie Creek, Arkansas, to answer on the first day of the next January, 1915, Term of the District Court of the United States, for the Western District of Arkansas, Fort Smith Division, a complaint filed against them in said court by Coronado Coal Company, et al. and F. Bache, Receiver, and warn them that upon their failure to answer, the complaint will be taken for confessed; and you will make due return of the summon on the first day of the ext January, 1915, Term of said court.

In Witness Whereof, Honorable Frank A. Youmans, Judge of the District Court of the United States for the Western District of Arkansas, has caused the seal of said
41 court to be hereto affixed this 16th day of September, A. D. 1914.

(Seal of Court) WM. S. WELLSHEAR, Clerk.

Received this writ at Fort Smith, Ark. on the 18th day of September 1914 and executed the same on William Rodden by leaving a true copy with Mrs. William Rodden his wife an adult person at his usual place of abode at Hartford, Ark. on Sept. 21st, 1914.

On Joe Kerbellas by leaving a true copy with Mrs. Joe Kerbellas his wife an adult person at his usual place of abode at Midland, Ark.

On Joe Lanier by leaving a true copy with Mrs. Joe Lanier, his wife an adult person at his usual place of abode at 3 m SW Prairie Creek, Ark. on Sept. 22nd, 1914.

On Charles Blackburn by leaving a true copy with Mrs. Charles Blackburn, his wife an adult person at his usual place of abode at Hartford Arkansas on Sept. 22nd, 1914.

On Ed Kehee by delivering to him personally a true copy at 3 m SW Prairie Creek, Ark. on Sept. 22nd, 1914.

On Albert Hunter by leaving a true copy with Mrs. Albert Hunter his wife an adult person at his usual place of abode at Huntington, Ark. on Sept. 22, 1914.

On Rich Handlin by leaving a true copy with Mrs. Rich Handlin his wife an adult person at his usual place of abode at Midland, Ark. on September 22nd, 1914.

On Scott Adkins by leaving a true copy with Mrs. Scott Adkins his wife an adult person at his usual place of abode at Huntington, Ark., on Sept. 22, 1914.

On Frank Petty by leaving a true copy with Mrs.
42 Frank Petty, his wife an adult person at his usual place of abode at Mansfield, Ark. on September 22, 1914.

On Claud Litchford by leaving a true copy with Mrs. Claud Litchford, his wife, at his usual place of abode at Huntington, Ark. on Sept. 22, 1914.

On John Litchford by delivering to him personally a true copy at Huntington, Ark. on Sept. 22, 1914.

On Otto Altman by leaving a true copy with Mrs. Otto Altman, his wife, an adult person at his usual place of abode at Midland, Ark. on September 22nd, 1914.

On Carey Crumpton, by leaving a true copy with Mrs. Carey Crumpton, his wife, an adult person at his usual place of abode at Huntington, Ark. on Sept. 22nd, 1914.

On William Price, by leaving a true copy with Mrs. William Price, his wife, an adult person at his usual place of abode at Midland, Arkansas, on Sept. 21, 1914.

On Peter McMullen, by delivering to him personally a true copy at Midland, Ark. on September 21, 1914.

On Peter McMullen, Jr. by delivering to him a true copy at Midland, Ark. on Sept. 21st, 1914.

On John Murray by leaving a true copy with Mrs. John Murray, his wife, at his usual place of abode at Midland, Ark. on Sept. 21, 1914.

On Sam Wooten by delivering to him personally a true copy at Midland, Ark. on the 21st day of September, 1914.

On Marion Hulsey by leaving a true copy with Mrs. Marion Hulsey, his wife, an adult person at his usual place of abode at Midland, Ark. on Sept. 21st, 1914.

On Maje Hulsey, by leaving a true copy with Mrs.
43 Maje Hulsey, his wife, an adult person at his usual place of abode at Midland, Ark. on September 21, 1914.

On Tom Watson, by leaving a true copy with Mrs. Tom Watson, his wife, an adult person at his usual place of abode at Midland, Ark. on September 21, 1914.

On Derwood Warren, by leaving a true copy with Mrs. Derwood Warren, his wife, an adult person, at his usual place of abode at Midland, Ark. on Sept. 21, 1914.

On Harry Birkett, by leaving a true copy with Mrs. Harry Birkett, his wife, an adult person, at his usual place of abode at Midland, Ark. on Sept. 21, 1914.

On Bud Williams, by leaving a true copy with Mrs. Bud Williams, his wife, an adult person at his usual place of abode at Midland, Ark. on September 21, 1914.

On Brock Smith, by delivering to him personally a true copy at Midland, Arkansas on Sept. 21, 1914.

On Willis Congo by leaving a true copy with Mrs. Willis Congo, his wife, an adult person at his usual place of abode at Prairie Creek, Ark. on Sept. 21, 1914.

On Leslie Congo, by leaving a true copy with Mrs. Leslie Congo, his wife, an adult person, at his usual place of abode at Prairie Creek, Ark. on Sept. 21, 1914.

On Bud Congo, by leaving a true copy with him personally at Prairie Creek, Ark. on Sept. 21, 1914.

On Chas. McKown, by leaving a true copy with Mrs. Chas. McKown, his wife, an adult person at his usual place of abode at Hartford, Ark. on September 22, 1914.

On J. W. Howard, by leaving a true copy with Mrs. J. W. Howard, his wife, an adult person, at his usual place
44 of abode at Prairie Creek, Ark. on September 21, 1914.

On John T. W. Davis, by leaving a true copy with Mrs. T. W. Davis, his wife, an adult person at his usual place of abode at Prairie Creek, Ark. on September 21, 1914.

The within named Joe Kidd, Lee Jones, Henry Doyle, Robert Graham, Joe Young, James Crumpton, not found.

J. H. PARKER, U. S. Marshal.
By T. N. Black Deputy.

---

45 (Petition of George Westwood, et al., for leave to Intervene etc.)

Filed in the U. S. District Court, October 5, 1914.

Geo. Westwood, Arthur Blakeley, Jim Braddock, Wm. Steele, Chas. Browning, Miss Bessie Dodd, Luther Parks, Leslie Arwig, Dick Garrett, Walter Sweet, Chas. McClain, Jas. Brady, Geo. Lovely and Jas. Walker, Intervenors.

Comes the above named intervenors and for their petition as such intervenors, allege that they are each residents and citizens of the City of Hartford, Sebastian County, Arkansas.

That said intervenors are, and were at the times hereinafter alleged, a committee, acting under authority delegated to them as a commitee to arrange for a picnic and barbecue and celebration at said City of Hartford, Arkansas, on the 7th day of September, 1914.

That the citizens of Hartford, Arkansas, during the month of August, 1914, determined to celebrate the 7th day of September, 1914, and arranged to serve a free dinner, consisting of barbecued meats and other articles of food, to all persons who should attend said celebration; and also to provide amusements for the entertainment of the people who should visit said city on this occasion, and that it required a large sum of money to purchase the beeves, hogs &c. together with the bread, cakes, pickles and other things necessary to prepare said dinner. That it also required money to employ labor in and about the cooking and preparing of said material for said dinner and for furnishing ice and water to accommodate the people at said celebration.

46 That a system by which to work became and was necessary and mass-meetings were held and these intervenors were chosen as a committee to act for the citizens of said city in arranging for said picnic and devising the means whereby the expenses could be defrayed. That the said commitee was given plenary powers under which to perform their duties.

That the committee aforesaid went before the residents of said city and solicited a voluntary contribution from all such people as were convenient to be reached by the committe, but that a large portion of the citizens of said city were miners by occupation and were not readily accessible to the commitee, and it was agreed by said miners that they should each contribute to said commitee, to be used for the purposes of defraying the aforesaid expenses, the sum of one dollar, and since it was not convenient for said miners to meet the committee, nor for the committee to see the miners personally, it was agreed by said miners that the said sum of one dollar should be checked off of the wages of each miner and placed to the credit of said committee and paid over by the Central Coal and Coke Company, for which said miners were working, to the committee or its authorized agent to be used for the purpose of defraying the expenses of said picnic and barbecue for none other. The sole reason for having said sum checked off the wages of said miners was that that was the only convenient manner in which said several sums could be contributed by them and collected by the committee. That said fund so contributed and ordered checked off the wages of the miners was never intended to be the property of any Local Union or in any manner to belong to or be controlled by the union.

47 That the amount contributed and checked off the wages of said miners for said picnic fund amounted in the aggregate to the sum of two hundred and fifty-eight dollars.

That on or about the 1st day of September, 1914, this suit was instituted, and thereafter a writ of garnishment before judgment was sued out by the plaintiff and served upon the Central Coal and Coke Company at Hartford, Arkansas, commanding it to answer on the return day of said writ, what moneys or property it might have in its hands or possession belonging to the United Mine Workers of America, or to either of the Local Unions to which the individual members making the contribution aforesaid, checked off as aforesaid, belonged or held membership. That at the time said writ

was served upon the Central Coal and Coke Company, aforesaid, the heretofore mentioned sum of money, towit: $258.00, was in the hands of said Central Coal and Coke Company, and is now being held by it contrary to the right of these intervenors and the individuals who contributed the same for the purposes aforesaid.

That said funds are not the property of the U. M. W. of A. or any Local Union, but is the sole property of the persons who contributed it, and that these intervenors are duly authorized by said contributors to receive the same and disburse it as aforesaid; and that this committee, acting upon the faith of the contributors and expecting to obtain the funds aforesaid, made contracts with divers persons and made promises to pay money for cattle and other commodities, which contracts they have been unable to fulfill, and which sums of money they have been unable to pay on account of the refusal of the Central Coal and Coke
48 Company to pay over such fund to this committee.

Wherefore, these interpleaders pray that they be allowed to enter their appearance for the purpose of asking that said fund be released from the operation of the writ of garnishment aforesaid, and that the Central Coal and Coke Company be ordered to pay the same over to these intervenors, the committee aforesaid, and that they have judgment for all their costs in this behalf laid out and expended.

JOHN W. GOOLSBY
Atty. for the Interpleaders.

Arthur Blakeley, being duly sworn states that he is one of the above named intervenors, and that the matters and things set forth in the foregoing petition are true.

ARTHUR BLAKELY

Subscribed and sworn to before me this 5 day of October, 1914.

WM. S. WELLSHEAR, Clerk.
By R. F. Salzman, Deputy.

---

49 (Hearing, October 5, 1914, on Petition of George Westwood, et al., for Leave to Intervene, etc.)

Before Judge Youmans.

This day come George Westwood, Arthur Blakely, Jim Braddock, William Steele, Charles Browning, Miss Bessie

Dodd, Luther Parks, Leslie Arwig, Dick Garrett, Walter Sweet, Chas. McClain, Jas. Brady, Geo. Lovely and James Walker, as intervenors, by John W. Goolsby, their attorney, and file petition to intervene and for release of funds from garnishment in the above entitled cause. And the plaintiffs appearing by Mr. James B. McDonough, their attorney, the said petition to intervene came on to be heard, and having heard the evidence adduced, by agreement of counsel the further hearing thereof is postponed until October 19th, 1914, at 10 o'clock in the forenoon.

---

50 (Hearing, October 17, 1914, on Petition of George Westwood, et al., for Leave to Intervene, etc.)

(Before Judge Youmans.)

This day came on again to be heard the petition of George Westwood and others as intervenors, and further evidence is offered and adduced on behalf of said intervenors.

---

51 (Writ of Attachment issued November 7, 1914, and Marshal's Return.)

Filed in the U. S. District Court December 31, 1914.

The President of the United States of America, To the Marshal of the Western District of Arkansas:

You are commanded to attach and safely keep the property of the defendants, United Mine Workers of America, United Mine Workers of America District 21, and Local Unions of the same, to-wit: 340, 374, 560, 586, 1130, 1159, 1526, 1530, 1565, 1810, 1814, 1824, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2316, 2494, 2766, 2769, 2770, 2772, 2841 and 2880, in your District not exempt from execution, or so much thereof as will satisfy the claim of Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Mining Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by F. Bache, Receiver, and F. Bache, Receiver, the plaintiffs in this action, for $1,283,462.31, and $30.00 for the costs thereof, and to summon Tom Goslan, Financial Secretary,
52 Hartford, Ark., John Henley, Hartford, Ark., C. R. Owsley, Greenwood, Ark., Chas. B. Osborne, Greenwood, Ark., Fred Gentry, Greenwood, Ark., J. W. McGehee, Greenwood, Ark., and such other persons as the plaintiffs may suggest, as garnishees, to answer this action on the first day of the

next January, 1915, term of the District Court of the United States for the Western District of Arkansas, Fort Smith Division, and make due return of this writ.

In Witness Whereof, Honorable Frank A. Youmans, Judge of the District Court of the United States for the Western District of Arkansas, has caused the seal of said court to be hereto affixed, this November 7, 1914.

(Seal of Court) WM. S. WELLSHEAR, Clerk.

United States of America,
Western District of Arkansas,
Fort Smith Division.

This writ came to hand on the 12th day of November, 1914, and I do hereby certify that I did at the time and places herein named serve the same within the Fort Smith Division of said Dist. of Arkansas, upon the within named Tom Goslan, at Hartford, Arkansas, Nov. 14, 1914; upon Fred Gentry and J. W. McGehee, Nov. 24, 1914, at Greenwood, Arkansas, and upon C. R. Owsley and Chas. E. Osborne, Dec. 11, 1914, at Greenwood, Arkansas, by then and there delivering to each of them a true copy thereof.

J. H. PARKER,
U. S. Marshal, Western District of Arkansas.
By T. N. Black, Deputy.

---

53 (Writ of Attachment, issued November 10, 1914, and Marshal's Return.)

Filed in the U. S. District Court, December 10, 1914.

The President of the United States of America, To the Marshal of the Western District of Arkansas:

You are commanded to attach and safely keep the property of the defendants, United Mine Workers of America, United Mine Workers of America District 21, and Local Unions of the same, to-wit: 340, 374, 560, 586, 1130, 1159, 1526, 1530, 1565, 1810, 1814, 1824, 1842, 1912, 1934, 2027, 2053, 2110; 2160; 2316, 2494, 2766, 2769, 2770, 2772, 2841 and 2880, in your District not exempt from execution, or so much thereof as will satisfy the claim of Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Mining Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by F. Bache, Receiver and F. Bache, Receiver, the plaintiffs in this action, for $1,283,462.31, and $30.00 for the costs thereof,

and to summon C. C. Calvert and John P. McBride, partners as Calvert-McBride Printing Company, City, George
54 Henry, City, and such other persons as the plaintiffs may suggest, as garnishees, to answer this action on the first day of the next January, 1915, term of the District Court of the United States for the Western District of Arkansas, Fort Smith Division, and make due return of this writ.

In Testimony Whereof, Honorable Frank A. Youmans, Judge of the District Court of the United States for the Western District of Arkansas, has caused the seal of said court to be hereto affixed, this November 10, 1914.

(Seal of Court) WM. S. WELLSHEAR, Clerk,
By Ruth Arnold, Deputy Clerk.

Fort Smith, Ark. Dec. 1, 1914.

I hereby certify that I have served this order of attachment by delivering copy of same to George Henry, November 18th, John P. McBride, November 19th and C. C. Calvert, November 28th, 1914, all in the City of Fort Smith, Arkansas.

J. H. PARKER,
U. S. Marshal, Western District of Ark.
By Walter G. Brasher, Deputy.

---

55 (Writ of Attachment issued November 11, 1914, and Marshal's Return.)

Filed in the U. S. District Court November 17, 1914.

The President of the United States of America, To the Marshal of the Western District of Arkansas:

You are commanded to attach and safely keep the property of the defendants, United Mine Workers of America, United Mine Workers of America District 21, and Local Unions of the same, to-wit: 340, 374, 560, 586, 1130, 1159, 1526, 1530, 1565, 1810, 1814, 1824, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2316, 2494, 2766, 2769, 2770, 2772, 2841 and 2880, in your District not exempt from execution, or so much thereof as will satisfy the claim of Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Mining Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by F. Bache, Receiver, and F. Bache, Receiver, the plaintiffs in this action, for $1,283,462.31, and $30.00 for the costs thereof, and to summon B. F. Mills, Secretary of Local

56 Union No. 2053, Spadra, Arkansas, and such other persons as the plaintiffs may suggest, as garnishees, to answer this action on the first day of the next January, 1915 Term of the District Court of the United States for the Western District of Arkansas, Fort Smith Division, and make due return of this writ.

In Testimony Whereof, Honorable Frank A. Youmans, Judge of the District Court of the United States for the Western District of Arkansas, has caused the seal of said court to be hereto affixed, this November 11th, 1914.

(Seal of Court) WM. S. WELLSHEAR, Clerk,
By Ruth Arnold, Deputy Clerk.

Fort Smith, Arkansas, Nov. 16th, 1914.

I certify that I have executed this order of attachment by delivering a copy to B. F. Mills, Secretary of Local Union #2053, at his home 1½ miles west of Spadra on November 13th, 1914.

J. H. PARKER, U. S. Marshal,
By Walter G. Brasher Deputy.

---

57 (Writ of Attachment issued November 12, 1914, and Marshal's Return.)

Filed in the U. S. District Court December 10, 1914.

The President of the United States of America, To the Marshal of the Western District of Arkansas:

You are commanded to attach and safely keep the property of the defendants, United Mine Workers of America, United Mine Workers of America District 21, and Local Unions of the same, to-wit: 340, 374, 560, 586, 1130, 1159, 1526, 1530, 1565, 1810, 1814, 1824, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2316, 2494, 2766, 2769, 2770, 2772, 2841 and 2880, in your District not exempt from execution, or so much thereof as will satisfy the claim of Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Mining Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by F. Bache, Receiver, and F. Bache, Receiver, the plaintiffs in this action, for $1,283,462.31, and $30.00 for the costs thereof, and to summon J. E. Flanner, Financial Secretary, Huntington, Arkansas, and such other persons as the

plaintiffs may suggest, as garnishees, to answer this
58 action on the first day of the next January, 1915, Term of the District Court of the United States for the Western District of Arkansas, Fort Smith Division, and make due return of this writ.

In Witness Whereof, Honorable Frank A. Youmans, Judge of the District Court of the United States for the Western District of Arkansas, has caused the seal of said court to be hereto affixed, this November 12th, 1914.

(Seal of Court) WM. S. WELLSHEAR, Clerk.
By Ruth Arnold, Deputy Clerk.

Fort Smith, Arkansas, Dec. 7, 1914.

I hereby certify that I have served this Order of Attachment by delivering a copy of same to J. E. Flanner, on December 1st, 1914, at his home in Mansfield, Arkansas.

J. H. PARKER, U. S. Marshal.
By J. L. Holt, Deputy U. S. M.

---

59 Summons issued November 16, 1914, and Return.

Filed in U. S. District Court November 17, 1914.

United States of America,
Western District of Arkansas,
Fort Smith Division.

The President of the United States of America, to the Marshal of the Western District of Arkansas:

You are commanded to summon Edward Cunningham and Edward Cunningham as President of District No. 21 U. M. W. of A., to answer on the first day of the next January 1915 Term of the District Court of the United States, for the Western District of Arkansas, Fort Smith Division, a complaint filed against him in said court by Coronado Coal Co. et al by F. Bache, Receiver, and F. Bache, Receiver, and warn him that upon his failure to answer, the complaint will be taken for confessed; and you will make due return of the summon on the first day of the next January 1915 Term of said court.

In Witness Whereof, Honorable Frank A. Youmans, Judge of the District Court of the United States, Western District of Arkansas, has caused the seal of said court to be hereto affixed this 16 day of November A. D. 1914.

(Seal of Court) WM. S. WELLSHEAR, Clerk.

Fort Smith, Ark., Nov. 16th, 1914.

I certify that I served this summons by delivering two copies to Edward Cunningham, one as Edward Cunning-
60 ham and one as Edward Cunningham, President of Dist. #21 United Mine Workers of America, on this the 16th day of November, 1914.

J. H. PARKER, U. S. Marshal,
By Walter G. Brasher, Deputy.

---

61 (Writ of Attachment issued November 20, 1914, and Marshal's Return.)

Filed in the U. S. District Court, December 10, 1914.

The President of the United States of America, To the Marshal of the Western District of Arkansas:

You are commanded to attach and safely keep the property of the defendants, United Mine Workers of America, United Mine Workers of America District 21, and Local Unions of the same, to-wit: 340, 374, 560, 586, 1130, 1159, 1526, 1530, 1565, 1810, 1814, 1824, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2316, 2494, 2766, 2769, 2770, 2772, 2841 and 2880, in your District not exempt from execution, or so much thereof as will satisfy the claim of Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Mining Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by F. Bache, Receiver, and F. Bache, Receiver, the plaintiffs in this action, for $1,283,462.31, and $30.00 for the costs thereof, and to summon John Finley, Financial Secretary of Local Union, as
62 garnishee, and such other persons as the plaintiffs may suggest, as garnishees, to answer this action on the first day of the next January, 1915 Term of the District Court of the United States for the Western District of Arkansas, Fort Smith Division, and make due return of this writ.

In Testimony Whereof, Honorable Frank A. Youmans, Judge of the District Court of the United States for the Western District of Arkansas, has caused the seal of said court to be hereto affixed, this November 20, 1914.

(Seal of Court)

WM. S. WELLSHEAR, Clerk.

Fort Smith, Arkansas, Dec. 1, 1914.

I hereby certify that I have served this Order of Attachment by delivering a copy of same to John Finley, Financial Secretary of Local Union #7. Central, at his home in the Town of Hartford, Arkansas, on the 23rd day of November, 1914.

J. H. PARKER, U. S. Marshal.
By T. N. Black, Deputy.

---

63 (Writ of Attachment issued December 1, 1914, and Marshal's Return.)

Filed in the U. S. District Court, December 10, 1914.

The President of the United States of America, To the Marshal of the Western District of Arkansas:

You are commanded to attach and safely keep the property of the United Mine Workers of America, United Mine Workers of America District 21, and Local Unions of the same, to-wit: 340, 374, 560, 586, 1130, 1159, 1526, 1530, 1565, 1810, 1814, 1824, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2316, 2494, 2766, 2769, 2770, 2772, 2841 and 2880 in your District not exempt from execution, or so much thereof as will satisfy the claim of Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Mining Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by F. Bache, Receiver, and F. Bache, Receiver, the plaintiffs in this action, for $1,283,462.31, and $30.00 for the cost thereof, and to summon Thieston Bradice of Hartford, Arkansas, and such other persons as
64 plaintiffs may suggest, as garnishees, to answer this action on the first day of the next January 1915 Term of said court, and make due return of this writ.

In Witness Whereof, Honorable Frank A. Youmans, Judge of the District Court of the United States for the Western District of Arkansas, has caused the seal of said District Court to be hereto affixed, this 1st day of December, 1914.

(Seal of Court)

WM. S. WELLSHEAR, Clerk.

Fort Smith, Arkansas, Dec. 7, 1914.

I hereby certify that I have served this Order of Attachment by delivering a copy of same to Thurston Bradic at his home in Hartford, Arkansas, on Dec. 2nd, 1914.

J. H. PARKER, U. S. Marshal.
By J. L. Holt, Deputy.

---

65 (Order, December 3, 1914, releasing certain funds from garnishment.)

Before Judge Youmans.

The petition of Geo. Westwood, Arthur Blakely, Jim Braddock, Wm. Steele, Chas. Browning, Miss Bessie Dodd, Luther Parks, Leslie Arwig, Dick Garrett, Walter Sweet, Chas. McClain, Jas. Brady, Geo. Lovely and Jas. Walker, Intervenors, filed October 5, 1914, which was heard by the court at a former day of the present term, together with the evidence and argument of counsel, having been considered, and being no wwell and sufficiently advised in the premises;

It is by the court considered, ordered and adjudged that the sum of $258.00 held by the Central Coal & Coke Company, being moneys received by said company from its employees as contributions toward defraying the expenses of a certain picnic and barbecue at the town of Hartford September 7, 1914, be, and is hereby released from garnishment in the above entitled cause.

---

66 Answer of Sebastian County Bank as Garnishee.

Filed in U. S. District Court January 4, 1915.

Comes the Sebastian State Bank as liquidating agent of the Sebastian County Bank, garnishees herein, and for answer says:

That the Sebastian County Bank was a corporation organized and existing under the laws of the State of Arkansas and engaged in the general banking business in the town of Greenwood, Arkansas; that on the 2nd day of September, 1914, said Sebastian County Bank began a process of liquidation and transferred all its assets and liabilities to the Sebastian State Bank for the purpose of liquidation and that the said Sebastian County Bank has ceased to exist as a corporation; that the Sebastian State Bank is a corporation organized and existing under the laws of the State of Arkansas and

is engaged in the general banking business at Greenwood, Arkansas, and is the successor of the said Sebastian County Bank and has possession of all of its records; that said Sebastian County Bank did not have in its possession at the time of the service of the writ of garnishment herein and neither it or its successor, the Sebastian State Bank, have received since the service of said writ of garnishment any moneys, goods, chattels or property of and belonging to either the United Mine Workers of America, the United Mine Workers of America of District #21, or of either of the following Local Unions of the United Mine Workers of America, to-wit: Local Union #340; Local Union #374; Local Union #560; Local Union #586; Local Union #1130; Local Union #1159; Local Union #1526; Local Union #1530;
Local Union #1565; Local Union #1810; Local Union
67 #1814; Local Union #1824; Local Union #1842; Local Union #1912; Local Union #1934; Local Union #2027; Local Union #2053; Local Union #2110; Local Union #2160; Local Union #2316; Local Union #2494; Local Union #2766; Local Union #2769; Local Union #2770; Local Union #2772; Local Union #2841; Local Union #2880.

Wherefore, garnishees having fully answered, prays that it be discharged with its costs herein laid out and expended.

SEBASTIAN STATE BANK
as liquidation agent for the Sebastian County Bank, Garnishee.

W. C. Davis on oath says that he was cashier of the Sebastian County Bank for two years before its liquidation and has been the Cashier of the Sebastian State Bank since the 2nd day of September, 1914, and that the foregoing answer is true and correct.

W. C. DAVIS

Subscribed and sworn to before me this 2nd day of January, 1915.

GEO. W. JOHNSON,
(Notarial Seal) Notary Public.

My commission expires Feb'y 25, 1917.

---

68 Answer of Fred Gentry as Garnishee.

Filed in U. S. District Court January 4, 1915.

Comes Fred Gentry, garnishee herein, and for answer says:

That he and J. W. McGehee have deposited to their credit in a bank the sum of Three Thousand and no/100 Dollars as a pledge to indemnify them, the said Fred Gentry and J. W. McGehee, as sureties on the bail bond of Bee Trout, Charlie Blackburn, Frank Gripola & Valentin Burriola for their appearance in the Sebastian Circuit Court for the Greenwood District of Sebastian County, Arkansas, at the January 1915 Term thereof; that it is not known to this garnishee whether said money is the property of the United Mine Workers of America, the United Mine Workers of America for District #21, or any of the following local unions, to-wit: #340; #374; #560; #586; #1130; #1159; #1530; #1526; #1565; #1810; #1814; #1824; #1842; #1912; #1934; #2027; #2053; #2110; #2160; #2316; #2494; #2766; #2769; #2770; #2772; #2841; #2880; and that plaintiff should be held to strict proof of the identity of said funds.

Wherefore, having fully answered, garnishee prays that the garnishee be allowed to hold said money until discharged from the bail bond of said Bee Trout, Charlie Blackburn, Frank Gripola & Valentin Burriola by their appearance in the Sebastian Circuit Court, Greenwood District of Sebastian County, Arkansas, and that he be discharged with all his costs herein laid out and expended.

FRED GENTRY

Subscribed and sworn to before me this 2nd day of January, 1915.

GEO. W. JOHNSON,
(Notarial Seal) Notary Public.

My commission expires Feb'y 25, 1917.

---

69 Answer of J. W. McKehee, Garnishee.

Filed in U. S. District Court January 4, 1915.

Comes J. W. McGehee, the garnishee herein, and for his answer says:

That he and Fred Gentry have deposited to their credit in the bank the sum of Three Thousand and no/100 Dollars as a pledge to indemnify them, the said J. W. McGehee and Fred Gentry, as sureties on the bail bonds of Bee Trout, Charlie Blackburn, Frank Gripola and Valentin Burriola for their appearance in the Sebastian Circuit Court for the Greenwood District of Sebastian County, Arkansas, at the January 1915 term thereof; that it is not known to this garni-

shee whether said money is the property of the United Mine Workers of America, the United Mine Workers of America of District #21 or of any of the following locals unions of same, to-wit: #340; #374; #560 #586; #1130; #1159; #1526; #1530; #1565; #1810; #1814; #1824; #1842; #1912; #1934; #2027; #2053; #2110; #2160; #2316; #2494; #2766; #2769; #2770; #2772; #2841; #2880 and that plaintiff should be held to strict proof of the identity of said funds.

Wherefore, having fully answered, garnishee prays that the garnishee be allowed to hold said money until discharged from the bail bond of said Bee Trout, Charlie Blackburn, Frank Gripola & Valentin Burriola by their appearance in the Sebastian Circuit Court, Greenwood District of Sebastian County, Arkansas, and that he be discharged with all his costs herein laid out and expended.

J. W. McGEHEE.

Subscribed and sworn to before me this 2nd day of January, 1915.

GEO. W. JOHNSON,
Notary Public.

(Notarial Seal)

My Commission expires Feb'y 25, 1917.

---

70 Answer of Chas. E. Osborn as Garnishee.

Filed in U. S. District Court January 4, 1915.

Comes Chas. E. Osborn, garnishee herein, and for his answer says:

That he and C. R. Owsley have deposited to their credit in a bank the sum of Two Thousand Five Hundred and no /100 Dollars as a pledge to idemnify them, the said Chas. E. Osborn and C. R. Owsley, as surties on the bail bond of one Jas. Slankard for his appearance in the Sebastian Circuit Court for the Greenwood District of Sebastian County Arkansas, at the January, 1915 Term thereof; that it is not known to his garnishee whether said money is the property of the United Mine Workers of America, United Mine Workers of America District #21, or any of the following local unions of same, to-wit: #340; #374; #560; #586; #1130; #1159; #1526; 1530; 1565; 1810; 1814; 1824; 1842; 1912; 1934; 2027; 2053; 2110; 2160; 2316; 2494; 2766; 2769; 2770; 2772; 2841; 2880; and that plaintiffs should be held to strict proof of the identity of said funds.

Wherefore, having fully answered garnishee prays that the garnishee should be allowed to hold said money until discharged from bail bond of said Jas. Slankard by his appearance in the Sebastian Circuit Court, Greenwood District of Sebastian County, Arkansas, and that he be discharged with all his costs herein laid out and expended

CHAS. E. OSBORN

Subscribed and sworn to before me 2nd day of January, 1915.

GEO. W. JOHNSON,
Notary Public.

My Commission expires Feb'y 25, 1917.

---

71 Answer of German American Bank as Garnishee.

Filed in U. S. District Court January 4, 1915.

Comes the German American Bank, by its cashier, J. N. Adams, and for answer herein states that the said German American Bank did not have, at the time of receiving the order of garnishment herein, nor has it at present any funds bedonging to the United Mine Workers of America, not the belonging to the United Mine Workers of America, nor the United Mine Workers of America District No. 21. Nor had the said bank any funds nor has it any now belonging to the Local Unions of same, to-wit: Locals No. 340, 374, 560, 586, 1130, 1159, 1526, 1530, 1565, 1810, 1824, 1842, 1912, 1934, 2053, 2110, 2160, 2316, 2494, 2766, 2769, 2770, 2772, 2841, and 2880. The said German American Bank further states for answer herein that it had at the time of notice of garnishment herein, and has at this time the following amounts belonging to the following named Locals, to-wit: Local No. 1814 Amount $16.38, Local No. 2027 Amount $10.49.

Given under my hand as Cashier of said German American Bank this the first day of January, 1915.

J. N. ADAMS, Cashier.

State of Arkansas,
County of Franklin.

On this the first day of January, 1915, comes before me the undersigned, a Notary Public within and for the County aforesaid, duly commissioned and acting, J. N. Adams who stated under oath that the foregoing statement was true to the best of his knowledge and belief.

Given under my hand and seal the date first above written.

(Notarial Seal) G. W. NICHOLS, Notary Public.

My Commission expires Dec. 21st, 1918.

---

72 Answer of Bank of Clarksville as Garnishee.

Filed in U. S. District Court January 7, 1915.

Now comes the Bank of Clarksville, who has been summoned as garnishee herein, and in answer to the writ of garnishment that has been served upon it by the plaintiffs says:

First: That at the time it was summoned as garnishee it did not have, nor has it since that time, nor has it now in its possession, custody or charge any lands, tenements, goods, chattels moneys, securities or effects of any kind belonging to the defendants.

Second: That at the time it was summoned as garnishee it was not, nor has it since become, nor is it now in any wise indebted to said defendants.

Third: That at the time it was summoned as garnishee it was not, nor has it since become, nor is it now bound in any contract to pay the defendants any money which it not yet due.

Fourth: That at the time it was summoned as garnishee none of the defendants were then, nor have they since become, nor are they or any of them now in the employ of it by which it might become indebted to the defendants herein.

Wherefore, the garnishee having fully answered the writ of garnishment served upon it, it asked that it be discharged as such garnishee free from all costs and liability whatever.

BANK OF CLARKSVILLE
By M. A. Lucas, Casier.

Subscribed and sworn to before me this the 11th day of Jany 1915.

(Notarial Seal) M. E. CLARK,
Notary Public.

My Com. expires Nov. 21st, 1916.

---

73 Answer Of First National Bank As Garnishee.

Filed in U. S. District Court January 7, 1915.

Now comes the garnishee and states that it had on Sept. 4, 1914, funds belonging to Local Union No. 1130—amounting to Three Hundred Eighty and 41/100 Dollars ($380.41), and which it does now hold subject to the order of the District Court of the United States, Western Division of Arkansas, and in answer to the other several Local Unions it did not and does not now hold any of their funds.

1ST. NATIONAL BANK,
Fort Smith, Ark.
A. S. Bullock, Cashier.

A. S. Bullock, being duly sworn, says the facts stated in the foregoing answer are true to the best of his knowledge and belief.

A. S. BULLOCK.

Subscribed and sworn to before me on the 29th day of December, 1914.

(Notarial Seal) J. L. McCARTHY,
Notary Public.

My commission expires March 21, 1918.

---

74 Answer Of John R. McBride As Garnishee.

Filed in U. S. District Court January 7, 1915.

John R. McBride, individually and as Vice-President of the Calvert-McBride Printing Co., garnishee in the above action, being first duly sworn, answers that he was not, when summoned as garnishee in this cause, indebted, and is not now indebted to the defendant in any sum whatsoever.

And further answering he has not now in his hands and possession or under his control any goods, chattels, monies, credits or effects belonging to said defendant.

JOHN R. McBRIDE,
Garnishee.

Subscribed and sworn to before me this sixth day of January, 1915.

(Notarial Seal) B. H. CONNER,
Notary Public.

My commission expires Feb. 20, 1918.

---

75 Answer Of C. C. Calvert As Garnishee.

Filed in U. S. District Court January 7, 1915.

C. C. Calvert, individually and as President of the Calvert-McBride Printing Co., garnishee in the above action, being first duly sworn, answers that he was not, when summoned as garnishee in this cause, indebted, and is not now indebted to the defendant in any sum whatsoever.

And further answering he has not now in his hands and possession or under his control any goods, chattels, monies, credits or effects belonging to said defendant.

C. C. CALVERT,
Garnishee.

Subscribed and sworn to before me this sixth day of January, 1915.

(Notarial Seal)

A. S. DOWD,
Notary Public.

My commission expires Feb. 20, 1918.

---

76 Answer Of Huntington State Bank As Garnishee.

Filed in U. S. District Court January 8, 1915.

Below I give you a list of the money belonging to the United Mine Workers of America which has been in our hands since Sept. 3, 1914, at which time it was attached by order from your court.

Local No. 2494, Ves Strunk, Treas.	Sick fund.....	$ 7.30
Local No. 2494, Ves Strunk, Treas.	General fund....	$87.50
Local No. 2841, C. H. Shelley, Treas.	General fund....	$65.14
Local No. 2841, J. E. Flanner, Treas.	Sick fund.....	$22.45

I solemnly swear that the above is true and correct to the best of my knowledge and belief, so help me God.

G. R. DELLYUH, Cashier.

Subscribed and sworn to before me this 6th day of January, 1915.

(Notarial Seal)

J. L. HIGGINS,
Notary Public.

My commission expires April 4th, 1918.

---

77 Answer Of Branner Coal Company As Garnishee.

Filed in U. S. District Court January 9, 1915.

Branner Coal Company garnishee herein for answer states that it had on hand at the time of the service and now has on hand deposited in the Bank of Hackett, at Hackett, Arkansas Twenty two dollars and eighty cents ($22.80) the property of the United Mine Workers of America, and having fully answered asks that it be discharged with its costs.

State of Arkansas
County of Sebastian.

Ben Cravens states that he is a director and attorney for the Branner Coal Company, and that the above answer is true to the best of his knowledge and belief.

BEN CRAVENS.

Subscribed and sworn to before me this the 8th day of Jan., 1915.

(Notarial Seal)

J. J. COENEN,
Notary Public.

My commission expires Jan. 8, 1918.

---

78 Answer Of American National Bank As Garnishee.

Filed in U. S. District Court January 11, 1915.

Comes the above named garnishee, the American National Bank, of Fort Smith, Arkansas, and answering the writ of garnishment served on it in the above named action, states that, on the date of the service of the writ of garnishment herein, said Bank had on deposit $8557.35 in the name of F. W. Holt, Secretary, which sum said Bank understands and believes to be the funds of the defendant, the United Mine Workers of America;

That said Bank still has the said above named amount on deposit, and that it has not had at any time since the service of said writ any other goods, chattels, monies, credits or effects belonging to the said defendant nor any nor either of them.

Said garnishee prays that the court will require strict proof as to the ownership of the said above named deposit before making any orders therefore affecting in any this garnishee. Said above named money is held subject to the orders of this court.

Having thus fully answered, said garnishee prays that it be discharged from further answering in this matter, and that it have and recover all of its costs and expenses herein laid out and expended.

T. W. M. BOONE
Atty. for American National Bank,
Garnishee.

State of Arkansas
County of Sebastian.

P. A. Ball, being duly sworn, states that he is Cashier of the American National Bank of Fort Smith, Arkan-
79 sas, and that he is familiar with the affairs of said Bank, and that the statements made in the above and foregoing answer are true to the best of his knowledge and belief.

P. A. BALL, Cashier.

Subscribed and sworn to before me on this the 11th day of January, 1915.

(Notarial Seal) A. S. DOWD,
Notary Public.

My commission expires Feb. 20, 1918.

---

80 Answer Of Midland State Bank As Garnishee.

Filed in U. S. District Court January 11, 1915.

In answer to the Writ of Garnishment, under date of Sept. 2, 1914, we will state that local No. 340, of the United Mine Workers of America, had to their credit in this bank only ninety cents, (.90), when acct. was attached.

This was the only local that had an account with us at that time.

Very respectfully,

JERRY BELL,
Cashier.

---

81 Answer of Citizens Bank of Coal Hill as Garnishee.

Filed in U. S. District Court January 11, 1915.

Comes now the Citizens Bank, Coal Hill, Ark., and says that it has not now, and did not have at the time of the issuance of the writ of attachment herein, and the service thereof, upon it, any money, property, of any kind belonging to the

United Mine Workers of America, or to any Local Union thereof, and had not had for the period of sixty days prior thereto.

THE CITIZENS BANK,
Coal Hill, Ark.
By A. G. Hill, Cashier.

Subscribed and sworn to before me this 11th day of January, 1915.

(Notarial Seal) P. C. HENDRICKS,
Notary Public.

My commission expires March 19, 1917.

---

82 (Record Entry, January 11, 1915, of the filing of Separate answers of American National Bank et al., as Garnishees.)

Before Judge Youmans.

This day there is filed in the above entitled cause answer of American National Bank as garnishee, answer of Midland State Bank as garnishee, and answer of Citizens Bank of Coal Hill as garnishee.

---

83 (Record Entry, January 11, 1915, of the filing of separate answers of Sebastian County Bank, et al., as Garnishees.)

Before Judge Youmans.

Ordered by the court that the answers of garnishees filed prior to January 11, 1915, in the above entitled cause be noted of record, the same being as follows, to-wit:

Sebastian County Bank Filed January 4, 1915.

Fred Gentry Filed January 4, 1915.

J. W. McGehee Filed January 4, 1915.

C. E. Osborn Filed January 4, 1915.

German-American Bank Filed January 4, 1915.

Bank of Clarksville Filed January 7, 1915.

First National Bank of Ft. Smith Filed January 7, 1915.

John R. McBride Filed January 7, 1915.

C. C. Calvert Filed January 7, 1915.

Huntington State Bank Filed January 8, 1915.

Branner Coal Company Filed January 9, 1915.

---

84 Answer of Bank of Hartford as Garnishee.

Filed in U. S. District Court January 11, 1915.

Comes now the Bank of Hartford, garnishee herein, and for its answer says:

That at the time of the service of the writ of garnishment herein upon it, as garnishee, this garnishee was and is now a corporation, organized under the laws of Arkansas, and engaged in a general banking business at Hartford, in Sebastian County, Arkansas, and that the said garnishee was indebted to the defendant Local Union No. 2769 in the sum of $195.54.

That said garnishee was indebted to Local Union No. 2110 in the sum of $12.34.

That said garnishee was indebted to Local Union No. 2770 in the sum of $91.82.

That said garnishee was indebted to Local Union No. 1530 in the sum of $134.46.

That said garnishee was indebted to Local Union No. 1526 in the sum of $233.69.

That said garnishee was indebted to Local Union No. 1526 in the sum of $31.00, funeral fund.

That said garnishee was indebted to Local Union No. 1565 in the sum of $103.56.

That said garnishee was indebted to Local Union No. 1565 in the sum of $10.40, sick benefit fund.

That said garnishee was indebted to Local Union No. 1912 in the sum of $264.76.

85 That said garnishee was indebted to Local Union No. 1912 in the sum of $173.50, sick benefit fund.

That said garnishee was indebted to Local Union No. 2110 in the sum of $378.00, relief fund.

That said garnishee was indebted to Frank Coffielt, relief fund, in the sum of $209.50.

Garnishee states that the above named Unions and persons are patrons and depositors of the garnishee, and the amounts

due, as above set forth, is the balance upon their several accounts, as depositors in garnishee's bank.

That garnishee cannot answer as to who is the beneficial owner of the several amounts.

Garnishee further says that it is not advised whether there is any checks outstanding against the accounts, or any of them.

That some of the Unions have two accounts. For instance, Local Union No. 1526 has its general account, as above shown, and a separate and special account which is designated as "funeral fund"; that, as above shown, Local Union No. 2110 has its general account on which there is a balance of $12.34, and a "relief fund" account of $378.00. Local Union No. 1912 has its general account and a special account designated as "sick benefit." That the account of Frank Coffielt, with a balance due of $209.50, as above stated, is a "miners' relief fund," but garnishee cannot state who is the beneficial owner thereof.

Further answering, garnishee says that it is not otherwise indebted to any of the parties above named than as above stated.

Wherefore, having fully answered, garnishee prays to
86 be discharged hence, that it be allowed a reasonable attorney's fee for filing this answer, and that it have all its costs herein.

G. W. WOOD,
Attorney for Garnishee.

Geo. W. Dodd, on his oath, says that he is attorney for the Bank of Hartford, a corporation, and that the statements of the above and foregoing answer are true, as he verily believes.

G. W. DODD.

Subscribed and sworn to before me this 11th day of January, 1915.

(Notarial Seal) Z. L. SWEARINGEN,
Notary Public.

My commission expires May 6, 1918.

87 (Record Entry, January 11, 1915, of the filing of the answer of Bank of Hartford, as Garnishee.)

Before Judge Youmans.

This day comes the Bank of Hartford by George Dodd, its attorney, and files its answer as garnishee in the above entitled cause.

---

88 Answer of C. R. Owsley as Garnishee.

Filed in U. S. District Court January 12, 1915.

Comes C. R. Owsley, Garnishee herein, and for his answer says:

That he and Chas. E. Osborn have deposited to their credlt in a bank the sum of Two Thousand Five Hundred and no/100 Dollars as a pledge to indemnify them, the said C. R. Owsley and Chas. E. Osborn, as sureties on the bail bond of one Jas. Clankard for his appearance in the Sebastian Circuit Court for the Greenwood District of Sebastian County, Arkansas, at the January 1915 Term thereof; that it is not known to this garnishee whether said money is the property of the United Mine Workers of America, the United Mine Workers of America of District #21, or of any of the following local unions of the same, to-wit: #340; #374; #560; #586; #1130; [—]1159; #1526; #1530; #1565; #1810; #1814; #1824; #1842; #1912; #1934; #2027; #2053; #2110; #2160; #2316; #2494; #2766; #2769; #2770; #2772; #2841; #2880 and that plaintiffs should be held to strict proof of the identity of said funds.

Wherefore, having fully answered, garnishee prays that the garnishee should be allowed to hold said money until discharged from the bail bond of said Jas. Slankard by his appearance in the Sebastian Circuit Court, Greenwood District of Sebastian County, Arkansas, and that he be discharged with all his costs herein laid out and expended.

C. R. OWSLEY.

Subscribed and sworn to before me this 2nd day of January, 1915.

(Notarial Seal) GEO. W. JOHNSON,
Notary Public.

My Commission expires Feb'y 25, 1917.

---

89 (Record Entry, January 12, 1915, of the filing of Answer of C. R. Owsley, as Garnishee.)

Before Judge Youmans.

This day there is filed in the above entitled cause answer of C. R. Owsley as garnishee.

---

90 Answer of Receivers of Bolen-Darnall Coal Company as Garnishee.

Filed in U. S. District Court January 13, 1915.

Come now W. E. Beaty and L. S. Mohr, Receivers of the Bolen-Darnall Coal Company, and for answer to the writ of garnishment issued out of this court on the 1st day of September, 1914, in the above entitled cause, which writ was served upon the superintendent of the Bolen-Darnall Coal Company at Hartford, Arkansas, on or about the 29th day of September, 1914, says:

That upon the date said writ was served upon said Receivers, they were not indebted, nor did they have in their possession, any moneys, properties, credits or effects belonging to the United Mine Workers of America, United Mine Workers of America, District No. 21 or to the Local Unions of District Number 21, to-wit: Unions 340, 374, 560, 586, 1130, 1159, 1526, 1530, 1565, 1810, 1814, 1824, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2316, 2494, 2766, 2769, 2770, 2772, 2841 and 2880, and have not now in their possession any moneys, properties, credits or effects belonging to the United Mine Workers of America or to any of the Local Unions above named.

Wherefore having fully answered, the Garnishee herein prays that it be fully and finally discharged herein with all its costs; that it be allowed a fee of $10.00 for its Answer herein.

W. E. BEATY & L. S. MOHR,
Receivers,
By Wright & Boyd,
Attorneys for Receivers.

---

91 (Record Entry, January 13, 1915, of the filing of Answer of Receivers of Bolen-Darnall Coal Company, as Garnishee.)

Before Judge Youmans.

This day there is filed in the above entitled cause answer of garnishee, Receivers of Bolen-Darnall Coal Company by Wright & Boyd, their attorneys.

---

92 Answer of George Henry as Garnishee.

Filed in U. S. District Court January 13, 1915.

Comes George Henry, Garnishee herein, and says that he has in his hands and possession a certain check or certificate of deposit showing that T. B. Douglas, Secretary, has deposited in the Oklahoma State Bank the sum of $5000. That the aforesaid certificate of deposit is held by him as collateral security, for the sum of $5000. If such fund is paid tn him he will then be indebted to T. B. Douglas in the sum of the value of said check, provided he is able to realize on said check, the said check never having been endorsed by the said T. B. Douglas.

That he is not now, neither has he ever been since the date of the service of the garnishment upon him herein indebted to the United Mine Workers of America, or any of the other defendants named in said garnishment since the date of the service of the garnishment upon him; neither has he in his hands any goods, chattels, credits, property or effects of any of the said defendants, except as herein stated.

GEO. HENRY.

Subscribed and sworn to before me on this the 13th day of January, 1915.

WM. S. WELLSHEAR, Clerk.

---

93 (Record Entry, January 13, 1915, of the filing of Answer of George Henry, as Garnishee.)

Before Judge Youmans.

This day there is filed in the above entitled cause answer of George Henry as garnishee.

---

94 (Stipulation extending time to January 16, 1915, to file Answer, Demurrer or Motion, etc.)

It is hereby stipulated and agreed that the time for filing any answer, demurrer or motion in this case on the part of any defendant herein is hereby extended from January 13, 1915, to January 16, 1915. This is with the understanding that either plaintiffs or defendants shall have the right to call up for submission any motion that may be filed herein, said right being given by permission of the court to call up said motion

if desired, on Saturday January 16, 1915, or at such time thereafter as the court may be able to hear the same.

READ & McDONOUGH,
Attorneys for Plaintiffs.

COVINGTON & GRANT,
Attorneys for Defendants.

---

95 Motion to Dismiss.

Filed in U. S. District Court January 14, 1915.

Come Joe Kervillas, Joe Lanier, Charles Blackburne, Ed Kehee, Albert Hunter, Rich Handlin, Scott Adkins, Frank Petty, Claud Litchford, John Litchford, Otto Altman, William Price, Peter McMullen, Peter McMullen, Jr., John Murray, Sam Wooten, Marion Hulsey, Maje Hulsey, Tom Watson, Derwood Warren, Harry Birkett, Willis Congo, Leslie Congo, Bud Congo, Chas. McKowen, J. W. Howard, Bud Williams (Col.), John T. W. Davis, Brock Smith (Col.) and Carey Crumpton; Peter R. Stewart, William McLaughlin, Tom King, Jess Edwards, Charley Farley, Edward Cunningham, William Green, Joe Overman, O. A. Brooke, Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charles Hendrix, Jim Lee, George Burnett, Pink Dunn, John Mastell, James Slankard, M. P. Appleby, Bruce Jordan, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, and Lewis Evans, separately and severally, but joining in this demurrer for convenience only, and by leave of the court first had and obtained so to do, appear specially for the purpose of filing this motion to dismiss and presenting the same, but for no other purpose whatever, and each of said defendants here separately and severally move the court to dismiss the bill of complaint filed herein against them for the following reasons:

1. There is a defect of parties plaintiff.

2. There is a defect of parties defendant.

Wherefore the defendants pray this motion to be sustained, and for all proper relief hereunder.

COVINGTON & GRANT,
For Defendants.

---

96 Motion to Quash Service of Summons on United Mine Workers of America.

Filed in U. S. District Court January 14, 1915.

Comes United Mine Workers of America, designated as a defendant in this case, and by [lieve] of the court first had and obtained so to do, appears specially for the purpose of filing and presenting this motion and for no other purpose whatever, and moves the court to quash the summons issued against it herein and the pretended service of summons on it, and for grounds of this motion says:

1. The United Mine Workers of America is not a corporation, nor a citizen of any state or country, or a legal entry, or a person, that it is in law a myth, being unincorporated association composed of many persons, and being the name by which a large number of men engaged in mining are designated; that it can neither sue or be sued, and there is no authority of law for issuing a summons against it, and no authority of law for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve the summons upon it the same was served on William Green, Secretary-Treasurer, by delivering a copy of the summons to Mrs. William Green, wife of the said William Green, which is in law no service whatever upon the said United Mine Workers of America.

3. That by the further return of the United States Marshal on the summons issued against the United Mine Workers of America it is shown that the summons was served upon
97 it by delivering a copy of the summons to Mrs. James Mullen, wife of James Mullen, which is no service upon the United Mine Workers of America.

4. That by a further return of the United States Marshal on the summons issued against the United Mine Workers of America it is shown that he attempted to serve said summons by delivering a true copy of the summons to Tom King, as Board member of the United Mine Workers of America, which is no service upon the said Union.

5. That by a further return of the United States Marshal it is shown that he further attemped to serve said summons by delivering a copy thereof to Ed Cunningham, as President of the United Mine Workers of America, which is no legal service upon the Union.

6. That there has been no other service of summons upon it.

Wherefore, it prays the court to sustain this motion, quash the summons and return of the marshal thereon showing the pretended service of the same, and for all other and proper relief.

COVINGTON & GRANT,
For Defendants.

---

98 Motion to Quash Service of summons on Local Union No. 340.

Filed in U. S. District Court January 14, 1915.

Comes Local No. 340, United Mine Workers of America, named as defendant in this case, and by [lieve] of the court first had and obtained for the specific purposes herein stated and none other, appears specially for the purpose of filing and presenting this motion and for no other purpose whatever, and moves the court to quash the summons issued against it herein, and the pretended service of the summons on it, and for ground of this motion says:

1. It is a voluntary unincorporated association, composed of many persons; that it is not a citizen, or legal entity, or a person, being in law a myth, and can neither sue or be sued, and there is no authority of law for causing a summons against it, and no authority of law for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve a summons upon it the same was served in the following way: By delivering a copy of the summons to M. B. Appleby, Secretary, which is, in law no service against this named defendant.

3. That there has been no other service upon this named defendant.

Wherefore, it prays the court to sustain this motion, quash the summons and pretended service of the same, and for all other proper relief.

COVINGTON & GRANT,
For Defendant.

---

99 Motion to Quash Service of summons on Local Union No. 374.

Filed in U. S. District Court January 14, 1915.

Comes Local Union No. 374, United Mine Workers of America, named as defendant in this case, and by leave of the court first had and obtained for the specific purposes herein stated and none other, appears specially for the purpose of filing and presenting this motion and for no other purpose whatever, and moves the court to quash the summons issued against it herein, and the pretended service of summons on it, and for grounds of this motion says:

1. It is a voluntary unincorporated association composed of many persons; that it is not a citizen, or legal entity, or a person, being in law a myth, and can neither sue or be sued, and there is no authority of law for issuing a summons against it, and no authority of law for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve the summons upon it the same was served in the following manner: By delivering a copy of the summons to Mrs. A. S. Crossley, the wife of A. S. Crossley, Secretary, which is, in law, no service upon it.

3. That there has been no other service upon this named defendant.

Wherefore,it prays the court to sustain this motion, quash the summons and pretended service of the same, and for all other and proper relief.

COVINGTON & GRANT,
For Defendant.

---

100 Motion to Quash Service of summons on Local Union No. 560.

Filed in U. S. District Court January 14, 1915.

Comes Local Union No. 560, United Mine Workers of America, named as defendant in this case, and by leave of the court first had and obtained for the specific purposes herein stated and none other, appears specially for the purpose of filing and presenting this motion and for no other purpose whatever, and moves the court to quash the summons issued against it herein, and the pretended service of summons on it, and for grounds of this motion says:

1. It is a voluntary unincorporated association composed of many persons; that it is not a citizen, or legal entity, or a person, being in law a myth, and can neither sue or be sued, and there is no authority of law for issuing a summons against it, and no authority of law for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve the summons upon it the same was served in the following manner: By delivering a copy of the summons to Mrs. G. W. Ray, the wife of G. W. Ray, Secretary, which is, in law, no service upon it.

3. That there has been no other service upon this named defendant.

Wherefore, it prays the court to sustain this motion, quash the summons and pretended service of the same, and for all other and proper relief.

COVINGTON & GRANT,
For Defendant.

---

101 Motion to Quash Service of summons on Local Union No. 586.

Filed in U. S. District Court January 14, 1915.

Comes Local No. 586, United Mine Workers of America, named as defendant in this case, and by leave of the court first had and obtained for the specific purposes herein stated and none other, appears specially for the purpose of filing and presenting this motion and for no other purpose whatever, and moves the court to quash the summons issued against it herein, and the pretended service of the summons on it, and for ground of this motion says:

1. It is a voluntary unincorporated association composed of many persons; that it is not a citizen, or legal entity, or a person, being in law a myth, and can neither sue or be sued, and there is no authority of law for issuing a summons against it, and no authority of law for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve the summons upon it the same was served in the following manner: By delivering a copy of the summons to Mrs. Ed Brandon, the wife of Ed Brandon, Secretary, which is, in law, no service upon it.

3. That there has been no other service upon this named defendant.

Wherefore, it prays the court to sustain this motion, quash the summons and pretended service of the same, and for all other and proper relief.

COVINGTON & GRANT,
Attorneys for Defendant.

---

102 Motion to Quash Service of summons on Local Union No. 1130.

Filed in U. S. District Court January 14, 1915.

Comes Local No. 1130, United Mine Workers of America, named as defendant in this case, and by [lieve] of the court first had and obtained for the specific purposes herein stated and none other, appears specially for the purpose of filing and presenting this motion and for no other purpose whatever, and moves the court to quash the summons issued against it herein, and the pretended service of the summons on it, and for ground of this motion says:

1. It is a voluntary unincorporated association composed of many persons; that it is not a citizen, or legal entity, or a person, being in law a myth, and can neither sue or be sued, and there is no authority of law for issuing a summons against it, and no authority of law for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve the summons upon it the same was served in the following way: By delivering a copy of the summons to Pat Moran, Secretary, which is, in law no service against this named defendant.

3. That there has been no other service upon this named defendant.

Wherefore, it prays the court to sustain this motion, quash the summons and pretended service of the same, and for all other and proper relief.

COVINGTON & GRANT,
For Defendant.

---

103 Motion to Quash Service of summons on Local Union No. 1526.

Filed in U. S. District Court January 14, 1915.

Comes Local No. 1526, United Mine Workers of America, named as defendant in this case, and by leave of the court first had and obtained for the specific purposes herein stated and none other, appears specially for the purpose of filing and presenting this motion and for no other purpose whatever, and moves the court to quash the summons issued against it herein, and the pretended service of the summons on it, and for ground of this motion says:

1. It is a voluntary unincorporated association composed of many persons; that it is not a citizen, or legal entity, or a person, being in law a myth, and can neither sue or be sued, and there is no authority of law for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve the summons upon it the same was served in the following manner: By delivering a copy of the summons to Mrs. Jack Barne, the wife of Jack Barne, Secretary, which is, in law, no service upon it.

3. That there has been no other service upon this named defendant.

Wherefore, it prays the court to sustain this motion, quash the summons and pretended service of the same, and for all other and proper relief.

COVINGTON & GRANT,
For Defendant.

---

104 Motion to Quash Service of summons on Local Union No. 1530.

Filed in U. S. District Court January 14, 1915.

Comes Local No. 1530, United Mine Workers of America, named as defendant in this case, and by leave of the court first had and obtained for the specific purposes herein stated and none other, appears specially for the purpose of filing and presenting this motion and for no other purpose whatever, and moves the court to quash the summons issued against it herein, and the pretended service of the summons on it, and for ground of this motion says:

1. It is a voluntary unincorporated association composed of many persons; that it is not a citizen, or legal entity, or a person, being in law a myth, and can neither sue or be sued, and there is no authority of law for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve the summons upon it the same was served in the following manner: By delivering a copy of the summons to Mrs. Arthur Blakely, the wife of Arthur Blakely, Secretary, which is, in law, no service upon it.

3. That there has been no other service upon this named defendant.

Wherefore, it prays the court to sustain this motion, quash the summons and pretended service of the same, and for all other and proper relief.

COVINGTON & GRANT,
For Defendant.

---

105 Motion to Quash Service of summons on Local Union No. 1565.

Filed in U. S. District Court January 14, 1915.

Comes Local No. 1565, United Mine Workers of America, named as defendant in this case, and by [lieve] of the court first had and obtained for the specific purposes herein stated and none other, appears specially for the purpose of filing and presenting this motion and for no other purpose whatever, and moves the court to quash the summons issued against it herein, and the pretended service of the summons on it, and for ground of this motion says:

1. It is a voluntary unincorporated association composed of many persons; that it is not a citizen, or legal entity, or a person, being in law a myth, and can neither sue or be sued, and there is no authority of law for issuing a summons against it, and no authority of law for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve the summons upon it the same was served in the following way: By delivering a copy of the summons to H. S. Treadway, Secretary, which is, in law no service against this named defendant.

3. That there has been no other service upon this named defendant.

Wherefore, it prays the court to sustain this motion, quash the summons and pretended service of the same, and for all other and proper relief.

COVINGTON & GRANT,
For Defendant.

---

106 Motion to Quash Service of summons on Local Union No. 1810.

Filed in U. S. District Court January 14, 1915.

Comes Local No. 1810, United Mine Workers of America, named as defendant in this case, and by leave of the court first had and obtained for the specific purposes herein stated and none other, appears specially and for the purpose of filing and presenting this motion and for no other purpose whatever, and moves the court to quash the summons issued against it herein, and the pretended service of the summons on it, and for ground of this motion says:

1. It is a voluntary unincorporated association composed of many persons; that it is not a citizen, or legal entity, or a person, being in law a myth, and can neither sue or be sued, and there is no authority of law for serving a summons upon it.

2. That the return of the United States Marshal made up on the summons issued against it in this case shows that in attempting to serve the summons upon it the same was served in the following manner: By delivering a copy of the summons to Mrs. F. L. Johnson, the wife of F. L. Johnson, Secretary, which is, in law, no service upon it.

3. That there has been no other service upon this named defendant.

Wherefore, it prays the court to sustain this motion, quash the summons and pretended service of the same, and for all other and proper relief.

COVINGTON & GRANT,
For Defendant.

---

107 Motion to Quash Service of summons on Local Union No. 1814.

Filed in U. S. District Court January 14, 1915.

Comes Local No. 1814, United Mine Workers of America, named as defendant in this case, and by leave of the court first had and obtained for the specific purposes herein stated and none other, appears specially for the purpose of filing and presenting this motion and for no other purpose whatever, and moves the court to quash the summons issued against it herein, and the pretended service of the summons on it, and for ground of this motion says:

1. It is a voluntary unincorporated association composed of many persons; that it is not a citizen, or legal entity, or a person, being in law a myth, and can neither sue or be sued, and there is no authority of law for issuing a summons against it, and no authority of law for serving a summons upon it.

2. And the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve the summons upon it the same was served in the following manner: By delivering a copy of the summons to Mrs. Mack Brown, the wife of Mack Brown, Secretary, which is, in law, no service upon it.

3. That there has been no other service upon this named defendant.

Wherefore, it prays the court to sustain this motion, quash the summons and pretended service of the same, and for all other and proper relief.

COVINGTON & GRANT,
Attorneys for Defendant.

---

108 Motion to Quash Service of summons on Local Union No. 1824.

Filed in U. S. District Court January 14, 1915.

Comes Local No. 1824, United Mine Workers of America, named as defendant in this case, and by leave of the court first had and obtained for the specific purposes herein stated and none other, appears specially for the purpose of filing and presenting this motion and for no other purpose whatever, and moves the court to quash the summons issued against it herein, and the pretended service of the summons on it, and for ground of this motion says:

1. It is a voluntary unincorporated association composed of many persons; that it is not a citizen, or legal entity, or a person, being in law a myth, and can neither sue or be sued, and there is no authority of law for issuing a summons against it, and no authority of law for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve the summons upon it the same was served in the following manner: By delivering a copy of the summons to Mrs. E. Fuller, the wife of E. Fuller, Secretary, which is, in law, no service upon it.

3. That there has been no other service upon this named defendant.

Wherefore, it prays the court to sustain this motion, quash the summons and pretended service of the same, and for all other and proper relief.

COVINGTON & GRANT,
Attorneys for Defendant.

---

109 Motion to Quash Service of summons on Local Union No. 1912.

Filed in U. S. District Court January 14, 1915.

Comes Local No. 1912, United Mine Workers of America, named as defendant in this case, and by leave of the court first had and obtained for the specific purposes herein stated and none other, appears specially for the purpose of filing and presenting this motion and for no other purpose whatever, and moves the court to quash the summons issued against it herein, and the pretended service of the same on it, and for grounds of this motion says:

1. It is a voluntary unincorporated association composed of many persons; that it is not a citizen, or legal entity, or a person, being in law a myth, and can neither sue or be sued, and there is no authority of law for issuing a summons against it and no authority of law for serving a summons upon it.

2. That the return of the United States Marshal made up on the summons issued against it in this case shows that in attempting to serve the summons upon it in this case, the same was served in the following manner: By delivery a copy of the summons to Mrs. Tom Goslin, the wife of Tom Goslin, Secretary, which is, in law, no service upon it.

3. That there has been no other service upon this named defendant.

Wherefore, it prays the court to sustain this motion, quash the summons and pretended service of the same, and for all other and proper relief.

COVINGTON & GRANT,
For Defendant.

---

110 Motion to Quash Service of Summons on Local Union No. 1934.

Filed in U. S. District Court January 14, 1915.

Comes Local No. 1934, United Mine Workers of America, named as defendant in this case, and by leave of the court first had and obtained for the specific purposes herein stated and none other, appears specially for the purpose of filing and presenting this motion and for no other purpose whatever, and moves the court to quash the summons issued against it herein, and the pretended service of the summons on it, and for grounds of this motion says:

1. It is a voluntary unincorporated association composed of many persons; that it is not a citizen, or legal entity, or a person, being in law a myth, and can neither sue or be sued, and there is no authority of law for issuing a summons against it, and no authority of law for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve the summons upon it the same was served in the following manner: By delivering a copy of the summons to Mrs. M. M. Carter, wife of M. M. Carter, Secretary, which is, in law no [serve] upon it.

3. That there has been no other service upon this named defendant.

Wherefore, it prays the court to sustain this motion, quash the summons and pretended service of the same, and for all other proper relief.

COVINGTON & GRANT,
For Defendant.

---

111 Motion to Quash Service of Summons on Local Union No. 2053.

Filed in U. S. District Court January 14, 1915.

Comes Local No. 2053, United Mine Workers of America, named as defendant in this case, and by leave of the court first had and obtained for the specific purposes herein stated and none other, appears specially for the purpose of filing and presenting this motion and for no other purpose whatever, and moves the court to quash the summons issued against it herein, and the pretended service of the summons on it, and for grounds of this motion says:

1. It is a voluntary unincorporated association composed of many persons; that it is not a citizen, or legal entity, or a person, being in law a myth, and can neither sue or be sued, and there is no authority of law for issuing a summons against it, and no authority of law for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve the summons upon it the same was served in the following manner: By delivering a copy of the summons to Mrs. B. F. Mills, wife of B. F. Mills, Secretary, which is, in law no [serve] upon it.

3. That there has been no other service upon this named defendant.

Wherefore, it prays the court to sustain this motion, quash the summons and pretended service of the same, and for all other proper relief.

COVINGTON & GRANT,
For Defendant.

---

112 Motion to Quash Service of Summons on Local Union No. 2160.

Filed in U. S. District Court January 14, 1915.

Comes Local No. 2160, United Mine Workers of America, named as defendant in this case, and by leave of the court first had and obtained for the specific purposes herein stated and none other, appears specially for the purpose of filing and presenting this motion and for no other purpose whatever, and moves the court to quash the summons issued against it herein, and the pretended service of the summons on it, and for grounds of this motion says:

1. It is a voluntary unincorporated association composed of many persons; that it is not a citizen, or legal entity, or a person, being in law a myth, and can neither sue or be sued, and there is no authority of law for issuing a summons against it, and no authority of law for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve the summons upon it the same was served in the following manner: By delivering a copy of the summons to Mrs. Joe O'Brien, wife of Joe O'Brien, Secretary, which is, in law no service upon it.

3. That there has been no other service upon this named defendant.

Wherefore, it prays the court to sustain this motion, quash the summons and pretended service of the same, and for all other proper relief.

COVINGTON & GRANT,
For Defendant.

---

113 Motion to Quash Service of Summons on Local Union No. 2316.

Filed in U. S. District Court January 14, 1915.

Comes Local No. 2316, United Mine Workers of America, named as defendant in this case, and by leave of the court first had and obtained for the specific purposes herein stated and none other, appears specially for the purpose of filing and presenting this motion and for no other purpose whatever, and moves the court to quash the summons issued against it herein, and the pretended service of the same on it, and for grounds of this motion says:

1. It is a voluntary unincorporated association composed of many persons; that it is not a citizen, or legal entity, or a person, being in law a myth, and can neither sue or be sued, and there is no authority of law for issuing a summons against it, and no authority of law for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve the summons upon it in this case the same was served in the following manner: By delivering a copy of the summons to Mrs. John Graham, the wife of

John Graham, Secretary, which, is in law, no service upon it.

3. That there has been no other service upon this named defendant.

Wherefore, it prays the court to sustain this motion, quash the summons and pretended service of the same, and for all other proper relief.

COVINGTON & GRANT,
For Defendant.

---

114 Motion to Quash Service of Summons on Local Union No. 2766.

Filed in U. S. District Court January 14, 1915.

Comes Local No. 2766, United Mine Workers of America, named as defendant in this case, and by leave of the court first had and obtained for the specific purposes herein stated and none other, appears specially for the purpose of filing and presenting this motion and for no other purpose whatever, and moves the court to quash the summons issued against it herein, and the pretended service of the summons on it, and for grounds of this motion says:

1. It is a voluntary unincorporated association composed of many persons; that it is not a citizen, or legal entity, or a person, being in law a myth, and can neither sue or be sued, and there is no authority of law for issuing a summons against it, and no authority of law for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve the summons upon it in this case the same was served in the following manner: By delivering a copy of the summons to Mrs. J. M. Stewart, the wife of J. M. Stewart, Secretary, which is, in law, no service upon it.

3. That there has been no other service upon this named defendant.

Wherefore, it prays the court to sustain this motion, quash the summons and pretended service of the same, and for all other proper relief.

COVINGTON & GRANT,
For Defendant.

---

115 Motion to Quash Service of Summons on Local Union No. 2769.

Filed in U. S. District Court January 14, 1915.

Comes Local No. 2769, United Mine Workers of America, named as defendant in this case, and by leave of the court first had and obtained for the specific purposes herein stated and none other, appears specially for this purpose of filing and presenting this motion and for no other purpose whatever, and moves the court to quash the summons issued against it herein, and the pretended service of the summons on it, and for grounds of this motion says:

1. It is a voluntary unincorporated association composed of many persons; that it is not a citizen, or legal entity, or a person, being in law a myth, and can neither sue or be sued, and there is no authority of law for issuing a summons against it, and no authority of law for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve the summons upon it the same was served in the following manner: By delivering a copy of the summons to Mrs. Logan Rogers, the wife of Logan Rogers, Secretary, which is, in law, no service upon it.

3. That there has been no other service upon this named defendant.

Wherefore, it prays the court to sustain this motion, quash the summons and pretended service of the same, and for all other proper relief.

COVINGTON & GRANT,
For Defendant.

---

116 Motion to Quash Service of Summons on Local Union No. 2770.

Filed in U. S. District Court January 14, 1915.

Comes Local No. 2770, United Mine Workers of America, named as defendant in this case, and by leave of the court first had and obtained for the specific purposes herein stated and none other, appears specially for this purpose of filing and presenting this motion and for no other purpose whatever, and moves the court to quash the summons issued against it herein, and the pretended service of the summons on it, and for grounds of this motion says:

1. It is a voluntary unincorporated association composed of many persons; that it is not a citizen, or legal entity, or a person, being in law a myth, and can neither sue or be sued, and there is no authority of law for issuing a summons against it, and no authority of law for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve the summons upon it the same was served in the following manner: By delivering a copy of the summons to Mrs. D. M. Greswold, the wife of D. M. Greswold, Secretary, which is, in law, no service upon it.

3. That there has been no other service upon this named defendant.

Wherefore, it prays the court to sustain this motion, quash the summons and pretended service of the same, and for all other proper relief.

COVINGTON & GRANT,
For Defendant.

---

117 Motion to Quash Service of Summons on Local Union No. 2841.

Filed in U. S. District Court January 14, 1915.

Comes Local No. 2841, United Mine Workers of America, named as defendant in this case, and by leave of the court first had and obtained for the specific purposes herein stated and none other, appears specially for this purpose of filing and presenting this motion and for no other purpose whatever, and moves the court to quash the summons issued against it herein, and the pretended service of the summons on it, and for grounds of this motion says:

1. It is a voluntary unincorporated association composed of many persons; that it is not a citizen, or legal entity, or a person, being in law a myth, and can neither sue or be sued, and there is no authority of law for issuing a summons against it, and no authority of law for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve the summons upon it the same was served in the following manner: By delivering a copy of the summons to Mrs. J. E. Flanner, the wife of J. E. Flanner, Secretary, which is, in law, no service upon it.

3. That there has been no other service upon this named defendant.

Wherefore, it prays the court to sustain this motion, quash the summons and pretended service of the same, and for all other proper relief.

COVINGTON & GRANT,
For Defendant.

---

118 Motion to Quash Service of Summons on Local Union No. 2880.

Filed in U. S. Distirct Court January 14, 1915.

Comes Local Union No. 2880, United Mine Workers of America, named as defendant in this case, and by leave of the court first had and obtained for the specific purposes herein stated and none other, appears specially for the purpose of filing and presenting this motion and for no other purpose whatever, and moves the court to quash the summons issued against it herein, and the pretended service of the summons on it, and for grounds of this motion says:

1. It is a voluntary unincorporated association composed of many persons; that it is not a citizen, or legal entity, or a person, being in law a myth, and can neither sue or be sued, and there is no authority of law for issuing a summons against it, and no authority of law for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve the summons upon it the same was served in the following manner: By delivering a copy of the summons to Mrs. Ray Crawford, the wife of Ray Crawford, which is, in law, no service upon it.

3. That there has been no other summons served upon this named defendant.

Wherefore, it prays the court to sustain this motion, quash the summons and pretended service of the same, and for all other and proper relief.

COVINGTON & GRANT,
For Defendant.

---

119 (Record Entry, January 14, 1915, of the filing of separate motions to quash service of summons on United Mine Workers, and others, etc.)

Before Judge Elliott.

This day come defendants in the above entitled cause by Messrs. Covington & Grant, their attorneys, and file stipulation as to the time in which pleadings may be filed in the above entitled cause.

Also come defendants Joe Kervillas and others by Messrs. Covington & Grant, their attorneys, and appearing specially for the purpose, file motion to dismiss in the above entitled cause.

Also come United Mine Workers of America by Messrs. Covington & Grant, their attorneys, and appearing specially for the purpose, file motion to quash summons, and return, in the above entitled cause.

Also comes defendant Local Union No. 340 by Messrs. Covington & Grant, its attorneys, and appearing specially for the purpose, files motion to quash summons, and return, in the above entitled cause.

Also comes defendant Local Union No. 374 by Messrs. Covington & Grant, its attorneys, and appearing specially for the purpose, files motion to quash summons, and return, in the above entitled cause.

Also comes defendant Local Union No. 560 by Messrs. Covington & Grant, its attorneys, and appearing specially for the purpose, files motion to quash summons, and return, in the above entitled cause.

Also comes defendant Local Union No. 586 by Messrs. Covington & Grant, its attorneys, and appearing specially for the purpose, files motion to quash summons,
120 and return, in the above entitled cause.

Also comes defendant Local Union No. 1130 by Messrs. Covington & Grant, its attorneys, and appearing specially for the purpose, files motion to quash summons, and return, in the above entitled cause.

Also comes defendant Local Union No. 1526 by Messrs. Covington & Grant, its attorneys, and appearing specially for the purpose, files motion to quash summons, and return, in the above entitled cause.

Also comes defendant Local Union No. 1530 by Messrs. Covington & Grant, its attorneys, and appearing specially for the purpose, files motion to quash summons, and return, in the above entitled cause.

Also comes defendant Local Union No. 1565 by Messrs. Covington & Grant, its attorneys, and appearing specially for the purpose, files motion to quash summons, and return, in the above entitled cause.

Also comes defendant Local Union No. 1810 by Messrs. Covington & Grant, its attorneys, and appearing specially for the purpose, files motion to quash summons, and return, in the above entitled cause.

Also comes defendant Local Union No. 1814 by Messrs. Covington & Grant, its attorneys, and appearing specially for the purpose, files motion to quash summons, and return, in the above entitled cause.

Also comes defendant Local Union No. 1824 by Messrs. Covington & Grant, its attorneys, and appearing specially for the purpose, files motion to quash summons, and
121 return, in the above entitled cause.

Also comes defendant Local Union No. 1912 by Messrs. Covington & Grant, its attorneys, and appearing specially for the purpose, files motion to quash summons, and return, in the above entitled cause.

Also comes defendant Local Union No. 1934 by Messrs. Covington & Grant, its attorneys, and appearing specially for the purpose, files motion to quash summons, and return, in the above entitled cause.

Also comes defendant Local Union No. 2053 by Messrs. Covington & Grant, its attorneys, and appearing specially for the purpose, files motion to quash summons, and return, in the above entitled cause.

Also comes defendant Local Union No. 2160 by Messrs. Covington & Grant, its attorneys, and appearing specially for the purpose, files motion to quash summons, and return, in the above entitled cause.

Also comes defendant Local Union No. 2316 by Messrs. Covington & Grant, its attorneys, and appearing specially for the purpose, files motion to quash summons, and return. in the above entitled cause.

Also comes defendant Local Union No. 2766 by Messrs. Covington & Grant, its attorneys, and appearing specially

for the purpose, files motion to quash summons, and return, in the above entitled cause.

Also comes defendant Local Union No. 2769 by Messrs. Covington & Grant, its attorneys, and appearing specially for the purpose, files motion to quash summons, and return, in the above entitled cause.

Also comes defendant Local Union No. 2770 by
122 Messrs. Covington & Grant, its attorneys, and appearing specially for the purpose, files motion to quash summons, and return, in the above entitled cause.

Also comes defendant Local Union No. 2841 by Messrs. Covington & Grant, its attorneys, and appearing specially for the purpose, files motion to quash summons, and return, in the above entitled cause.

Also comes defendant Local Union No. 2880 by Messrs. Covington & Grant, its attorneys, and appearing specially for the purpose, files motion to quash summons, and return, in the above entitled cause.

---

123 Answer Of First National Bank Of Clarksville As Garnishee.

Filed in U. S. District Court February 22, 1915.

I, A. N. Ragon, Cashier of the First National Bank of Clarksville, Arkansas, do solemnly swear that the amount standing on the books of said bank to the credit of Local Union No. 2053, U. M. W. of A., on September 3, 1914, was Sixty-three & 41/100 Dollars, and that no deposits have been made for said account since that date nor anything been withdrawn from said account since that date.

A. N. RAGON, Cashier.

Subscribed and sworn to before me this the 19th day of February, 1915.

(Notarial Seal) M. A. MOORE, Notary Public.

My commission expires March 21, 1917.

---

124 (Order, May 22, 1915, sustaining separate motions to quash service of summons on Local Union No. 560, and others and overruling separate motions to quash service of summons on United Mine Workers and others and Exceptions thereto.)

Before Judge Youmans.

The separate motions of certain defendants to quash service of summons in the above entitled cause having been argued by counsel and submitted, the court being now well and sufficiently advised in the premises, it is considered and ordered:

That said motion of Local Union No. 374 be, and is hereby sustained, and service of summons as to said defendant be, and is hereby quashed;

That said motion of Local Union No. 560 be, and is hereby sustained, and service of summons as to said defendant be, and is hereby quashed;

That said motion of Local Union No. 586 be, and is hereby sustained, and service of summons as to said defendant be, and is hereby quashed;

That said motion of Local Union No. 1526 be, and is hereby sustained, and service of summons as to said defendant be, and is hereby quashed;

That said motion of Local Union No. 1530 be, and is hereby sustained, and service of summons as to said defendant be, and is hereby quashed;

That said motion of Local Union No. 1810 be, and is hereby sustained, and service of summons as to said defendant be, and is hereby quashed;

That said motion of Local Union No. 1814 be, and is hereby sustained, and service of summons as to said de-
125 fendant be, and is hereby quashed;

That said motion of Local Union No. 1824 be, and is hereby sustained, and service of summons as to said defendant be, and is hereby quashed;

That said motion of Local Union No. 1912 be, and is hereby sustained, and service of summons as to said defendant be, and is hereby quashed;

That said motion of Local Union No. 1934 be, and is hereby sustained, and service of summons as to said defendant be, and is hereby quashed;

That said motion of Local Union No. 2053 be, and is hereby sustained, and service of summons as to said defendant be, and is hereby quashed;

That said motion of Local Union No. 2160 be, and is hereby sustained, and service of summons as to said defendant be, and is hereby quashed;

That said motion of Local Union No. 2316 be, and is hereby sustained, and service of summons as to said defendant be, and is hereby quashed;

That said motion of Local Union No. 2766 be, and is hereby sustained, and service of summons as to said defendant be, and is hereby quashed;

That said motion of Local Union No. 2769 be, and is hereby sustained, and service of summons as to said defendant be, and is hereby quashed;

That said motion of Local Union No. 2770 be, and is hereby sustained, and service of summons as to said defendant be, and is hereby quashed;

That said motion of Local Union No. 2841 be, and is hereby sustained, and service of summons as to said defendant be, and is hereby quashed;

126 That said motion of Local Union No. 2880 be, and is hereby sustained, and service of summons as to said defendant be, and is hereby quashed;

To the action of the court in sustaining each of said motions, and quashing the service as to each of the defendants above enumerated, the plaintiff duly excepted at the time.

And it is by the court considered and ordered that the motion of defendant Local Union No. 340 to quash service of summons upon said defendant be, and is hereby overruled. To which action of the court said defendant duly excepted at the time.

And it is by the court considered and ordered that the motion of defendant Local Union No. 1130 to quash service of summons upon said defendant be, and is hereby overruled. To which action of the court said defendant duly excepted at the time.

And it is by the court considered and ordered that the motion of defendant Local Union No. 1565 to quash service of summons upon said defendant be, and is hereby overruled. To which action of the court said defendant duly excepted at the time.

And it is by the court considered and ordered that the motion of defendant United Mine Workers of America to quash service of summons upon said defendant be, and is hereby overruled. To which action of the court said defendant duly excepted at the time.

---

127 (Demurer of Defendant, Joe Kervillas, et al., to Complaint.)

Filed in U. S. District Court, May 24, 1915.

The defendants, Joe Kervallas, William Rodden, Joe Lanier, Charles Blackburn, Joe Kidd, Lee Jones, Henry Doyle, Ed Kehee, Robert Graham, Albert Hunter, Rich Handlin, Scott Adkins, Joe Young, Frank Petty, Claud Litchford, John Litchford, Otto Aliman, James Crumpton, Carey Crumpton, William Price, Peter McMillian, Peter McMillian, Jr., John Murray, Sam Wotten, Marion Hulsey, Tom Watson, Maje Hulsey, Derwood Warren, Harry Birkett, Wills Congo, Leslie Congo, Bud Congo, Charles McKowen, J. W. Howard, Bud Williams, John T. W. Davis, Brock Smith, P. R. Stewart, William Mc Laughlin, Jess Edwards, Charley Farley, Edward Cunningham, Joe Overman, Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charles Hendrix, Jim Lee, George Burnett, Pink Dunn, Pete McMullen, John Mastel, James Slankard appearing specially for the purpose of filing and presenting this demurrer, but for no other purpose whatever, by leave of the court first had and obtained, demurs specially to plaintiffs complaint upon the following grounds:

First. If it be true that the Hartford Coal Company, the Mammoth Vein Coal Company, the Coronado Coal Company, and the Prairie Creek Coal Mining Company were engaged in interstate commerce at the time of the alleged acts causing the damages sued for, and there is a cause of action against these defendants, or say of them on account of such wrongs, then the plaintiffs just named, if entitled to sue at all, are compelled to sue under the laws of the United States known as the federal anti-trust laws, and their cause
128 of action would be exclusively cognizable under such laws, and there is no authority of law to join the plaintiffs just named with Denman Coal Company, Mammoth Vein Coal Mining Company, Sebastian County Coal Company, Mammoth Vein Royalty Company, who are not engaged in interstate commerce, and not so engaged at the time of the alleged acts causing the damages sued for, and who are compelled by law to recover against these defendants under the

statute or common law of the State of Arkansas, if at all, for the wrongs sued for.

Therefore, the defendants named above, say that there is a misjoinder of parties plaintiffs, and that this demurred ought to be sustained.

Second. If it be true that the Hartford Coal Company, the Mammoth Vein Coal Company, the Coronado Coal Company, and the Prairie Creek Coal Mining Company were engaged in interstate commerce at the time of the alleged acts causing the damages sued for, and there is a cause of action against these defendants, or any of them, on account of such wrongs, then the plaintiffs just named, if entitled to sue at all, are compelled to sue under the laws of the United States known as the federal anti-trust laws, and their cause of action would be exclusively cognizable under such laws, and there is no authority of law to join their cause of action with a cause of action accruing to the Denman Coal Company, Mammoth Vein Coal Mining Company, Sebastian County Coal Company, Mammoth Vein Royalty Company, who are not engaged in interstate commerce, and were not so engaged at the time of the alleged acts causing the damages sued for, and who are compelled by law to recover against these defendants under the statute or common law of the State of Arkansas, if at all, for the wrongs sued for.

Therefore the defendants named above say that there
129 is a misjoinder of cause of action, and that this demurred ought to be sustained.

Third. That the complaint fails to show upon its face that the plaintiffs named in the complaint have a joint interest in the money sued for, therefore there is a misjoinder of parties plaintiffs in this case.

Fourth. That the complaint fails to show upon its face that the plaintiffs named in the complaint have a joint interest in the money sued for, but it shows that their interests are separate and distinct, therefore there is a misjoinder of causes of action.

And the defendants further demurring, generally, to the complaint say:

First. The complaint does not state facts sufficient to constitute a cause of action.

Second. That the court has no jurdisdiction of the person of either of the defendants, or the subject of the action, it

appearing upon the face of the complaint that neither of the plaintiffs were engaged in interstate commerce at the time of the alleged acts causing the damages sued for, and that there is no diversity of citizenship between the plaintiffs and defendants.

Wherefore defendants pray that this demurrer be sustained and for all proper relief.

COVINGTON & GRANT,
For Defendants.

---

130 (Record Entry, May 24, 1915, of the filing of the Demurrer of Defendant Joe Kervillas, et al., to Complaint.)

Before Judge Youmans.

This day come defendants Joe Kervillas, William Rodden, Joe Lanier, Charles Blackburn, Joe Kidd, Lee Jones, Henry Doyle, Ed Kehoe, Robert Graham, Albert Hunter, Rich Handlin, Scott Adkins, Joe Young, Frank Petty, Claud Lichford, John Litchford, Otto Aliman, James Crumpton, Carey Crumpton, William Price, Peter McMillian, Peter McMillian, Jr., John Murray, Sam Wotten, Marion Hulsey, Tom Watson, Maje Hulsey, Derwood Warren, Harry Birkett, Willis Congo, Leslie Congo, Bud Congo, Charles McKowen, J. W. Howard, Bud Williams, John T. W. Davis, Brock Smith, P. R. Stewart, William McLaughlin, Jess Edwards, Charley Farley, Edward Cuningham, Joe Overman, Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charles Hendrix, Jim Lee, George Burnett, Pink Dunn, Pete McMullen, John Mastel, James Slankard, by Messrs. Covington & Grant, their attorneys, and by leave of court file demurrer to the complaint in the above cause.

---

131 Summons issued May 24, 1915, and Return.

Filed in U. S. District Court June 7, 1915.

United States of America,
Western District of Arkansas,
Fort Smith Division.

The President of the United States of America, to the Marshal of the Western District of Arkansas:

You are commanded to summon Fred Holt, John P. White, as President of United Mine Workers of America, James Mul-

len, National Executive Board member United Mine Workers of America, Frank J. Hayes and Frank J. Hayes as Vice President of the United Mine Workers of America, William Green and William Green as Secretary-Treasurer of the United Mine Workers of America, Jake Thompson, Jim McNamara, Local Union No. 374, United Mine Workers of America, Local Union No. 560, United Mine Workers of America, Local Union No. 586, United Mine Workers of America, Local Union No. 1159, United Mine Workers of America, Local Union No. 1526, United Mine Workers of America, Local Union No. 1530, United Mine Workers of America, Local Union No. 1810, United Mine Workers of America, Local Union No. 1814, United Mine Workers of America, Local Union No. 1824, United Mine Workers of America, Local Union No. 1842, United Mine Workers of America, Local Union No. 1912, United Mine Workers of America, Local Union No. 1934, United Mine Workers of America, Local Union No. 2027, United Mine Workers of America, Local Union No. 2053, United Mine Workers of America, Local Union No. 2110, United Mine Workers of America,
132 Local Union No. 2160, United Mine Workers of America, Local Union No. 2316, United Mine Workers of America, Local Union No. 2494, United Mine Workers of America, Local Union No. 2766, United Mine Workers of America, Local Union No. 2769, United Mine Workers of America, Local Union No. 2772, United Mine Workers of America, Local Union No. 2841, United Mine Workers of America, Local Union No. 2880, United Mine Workers of America, Whit Miller, Joe Coneoda, B. Trout, Joe Assola, Joe Kidd, Lee Jones, Henry Doyle, Robert Graham, Joe Young, James Crumpton and United Mine Workers of America, to answer on the first day of the next June 1915 Term of the District Court of the United States for the Western District of Arkansas, Fort Smith Division, a complaint filed against them in said court by Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Mining Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by F. Bache, Receiver, and F. Bache, Receiver, and warn them that upon their failure to answer, the complaint will be taken for confessed; and you will make due return of the summons on the first day of the next June 1915 Term of said court.

In Witness Whereof, Honorable Frank A. Youmans, Judge of the District Court of the United States, Western District of Arkansas, has caused the seal of said court to be hereto affixed this 24th day of May, A. D. 1915.

(Seal of Court) WM. S. WELLSHEAR, Clerk.

133 United States of America,
Western District of Arkansas,
Fort Smith Division.

This writ came to hand on the 25th day of May, 1915, and I do hereby certify that I did on the following dates duly serve the same within the Fort Smith Division of the Western District of Arkansas, on the within named parties by then and there delivering to each of them a copy thereof.

May 25th 1915 on Frank J. Hayes, Personal, Frank J. Hayes as Vice Pres. United Mine Workers of America, and on the United Mine Workers of America, by delivering copies to Frank J. Hayes.

May 27th 1915 on Local Union #2053 by delivering a copy to its Secretary, B. F. Mills, and on the same date on Local Union #1934 by delivering a copy to its Secretary Frank Postorczyk.

May 28th 1915 on Local Union #1814 by delivering a copy to its Secretary J. M. Nichols.

May 28th, 1915, on Local Union #2027, by delivering a copy to its Secretary John Messek.

May 28th 1915 on Local Union #2160 by delivering a copy to its Secretary Joe O'Brien.

J. H. PARKER,
U. S. Marshal,
By Walter G. Brasher, Chief Deputy.

Marshal's fees & costs

Brasher	8 Services	$16.00
"	Expense	10.50
Thornton	16 Services	32.00
"	Expense	22.58
	Total	$81.08

Office U. S. Marshal,
Western Dist. of Arkansas.

May 29, 1915.

I certify that I have served the within writ of summons by reading this summons to the various Secretaries of Lo-
134 cal Unions and delivering to each of them a true copy of same as follows:

Local Union		#560	Hackett	Chas. Lennier	Sec.	Served	5-28-1915
"	"	586	Huntington	H. L. Scott	"	"	5-27-1915
"	"	1526	Hartford	Dave Stewart	"	"	5-27-1915
"	"	1810	Jenny Lind	W. H. Dana	"	"	5-28-1915
"	"	1842	Greenwood	W. H. Boyd	"	"	5-28-1915
"	"	1912	Hartford	Jim Pattie	"	"	5-25-1915
"	"	2110	Midland	J. S. Williams	"	"	5-26-1915
"	"	2494	Midland	Vest Strunk	"	"	5-27-1915
"	"	2766	Greenwood	J. M. Stewart	"	"	5-28-1915
"	"	2769	Hartford	Willis M. Litton	"	"	5-26-1915
"	"	2770	Hartford	D. M. Griswold	"	"	5-26-1915
"	"	2772	Hackett	Joe Fell	"	"	5-28-1915
"	"	2841	Huntington	J. E. Flanners	"	"	5-25-1915
"	"	2880	Bonanza	Roy Crawford	"	"	5-28-1915
"	"	1530	Hartford	Arthur Blakley	"	"	5-26-1915
"	"	374	Reported dead				
"	"	1159	Could not find				
"	"	1824	Reported dead				
"	"	2316	" "				

Also served Fred Holt with a copy in Ft. Smith Jail on May 29-'15. All other individuals named in this summons could not be found reported to be out of the State of Ark. and their whereabouts not known.

J. H. PARKER, U. S. Marshal,
By J. A. Thornton,
Dept. U. S. Marshal.

---

135 (Order, June 14, 1915, of submission of Demurrer of Joe Kervillas, et al., to Complaint.)

Before Judge Youmans.

This day comes on to be heard the demurrer to the complaint heretofore filed by Joe Kervillas and other defendants therein named, the plaintiffs appearing by J. B. McDonough, their attorney, and the defendants therein named appearing by Messrs. Covington & Grant, their attorneys, and the said demurrer is argued by counsel and submitted.

---

136 Motion to Quash service of summons on Fred W. Holt.

Filed in U. S. District Court June 15, 1915.

Comes Fred W. Holt, and appearing specially for the purpose of filing and presenting this motion, but for no other purpose, moves the court to quash the return of the United States Marshal on the summons herein, and to quash the service of summons upon him, and for cause says:

1. That at the time of serving the papers upon him he was and is yet confined in the county jail of Sebastian County, Arkansas, under a commitment issued out of this court at its January Term, 1915, committing him to jail as a punishment imposed upon him by this court. That he is a citizen and resident of the State of Oklahoma, and is not voluntarily present in the jurisdiction of this court, but is here under restraint as a prisoner, being restrained by the process of the United States Courts, and being held by the United States, involuntarily in the jurisdiction of this court.

Wherefore, this defendant prays that the summons and return thereon now on file in this case be quashed as to him, and for all other proper relief.

COVINGTON & GRANT,
Attorneys for Defendant.

---

137 (Record Entry, June 15, 1915, of the filing of motion to quash service of summons on Fred W. Holt.)

Before Judge Youmans.

This day comes the defendant, Fred Holt, by Messrs. Covington & Grant, his attorneys, and files his separate motion to quash service of summons herein.

---

138 Motion to Quash Service of summons on United Mine Workers of America.

Filed in U. S. District Court June 15, 1915.

Comes the United Mine Workers of America, designated as a defendant herein, and by leave of the court first had and obtained, appears specially for the purpose of filing and presenting this motion and having it determined, but for no other purpose whatever, and moves the court to quash the summons issued against it herein, and the pretended service of summons upon it, and for grounds of this motion says:

1. The United Mine Workers of America is not a corporation, citizen of any state or county, or legal entity, or person; that it is in law a myth, being an unincorporated association composed of many persons, who are engaged in laboring as coal miners, and being the name by which such laborers are designated; that it can neither sue or be sued, and there is no authority of law for issuing a summons against it, and no authority of law for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve the summons upon it the same was served upon William Green, Secretary-Treasurer, by delivering a copy of the summons to Mrs. William Green, wife of said William Green, which is in law no service upon the said United Mine Workers of America. That, further, the said William Green who is the secretary-treasurer of the United Mine Workers of America, together with his said wife, resides in the State of Indiana; that neither of them were in the State of Arkansas at the time of the pretended service of the summons upon this defendant, and the service was not had upon either of
139 them; that the pretended return showing that a copy of the summons was delivered to the said Mrs. William Green, as wife of the Secretary-Treasurer of the said United Mine Workers of America, is untrue; that if the summons was delivered to a person, a wife of a William Green, it was not the William Green who is the secretary-treasurer.

3. That by the further return of the United States Marshal on the summons issued against the United Mine Workers of America it is shown that the summons was served upon it by delivering a copy of the summons to Mrs. James Mullen, wife of James Mullen, which is no service upon the United Mine Workers of America.

4. That by a further return of the United States Marshal on the summons issued against it, it is shown that the United States Marshal attempted to serve the summons upon the United Mine Workers of America by delivering a true copy of it to Tom King, as Board Member of the United Mine Workers of America, which is no service upon it, there being no authority of law for serving the United Mine Workers of America in that manner, and the said Tom King not being a person upon whom process may be served to bind this defendant.

5. That by a further return of the United States Marshal it is shown that he further attempted to serve said summons by delivering a copy thereof to Ed Cunningham, as President of the United Mine Workers of America, which is no service

upon the Union, there being no authority of law for serving process upon the United Mine Workers of America in that manner, and the said Cunningham not being a person upon whom process may be served to bind this defendant; and, further, the said Cunningham, at the time of service, was not president of the United Mine Workers of America, but was president of District 21, which is a separate and distinct
140 organization from that of the defendant, United Mine Workers of America.

5. That by a further return of the United States Marshal it is shown that he attempted to serve said summons on this defendant by delivering a copy of the summons to Frank J. Hays, as Vice-President of the United Mine Workers of America; that the said Hays is not a person upon whom process may be served to bind the United Mine Workers of America, and there is no authority of law for serving it in that manner, and there is no service upon this defendant.

7. That there is no other service of summons upon this defendant.

Wherefore, it prays the court to sustain the motion, quash the summons and pretended return of the United States Marshal on the same, and for all other proper relief.

COVINGTON & GRANT,
Attorneys for Defendant.

---

141 (Order, June 15, 1915, overruling motion to quash service of summons on United Mine Workers of America, and exceptions thereto.

Before Judge Youmans.

This day comes United Mine Workers of America by Messrs. Covington & Grant, its attorneys, and files its separate motion to quash the summons and service thereof upon it in the above entitled cause. Said motion coming on to be heard, the court being well and sufficiently advised in the premises, doth overrule the same. To which action of the court in overruling said motion the said defendant duly excepted at the time.

Demurrer of Local Union No. 340, to Complaint.

142 Filed in U. S. Court June 15, 1915.

Comes Local 340, styled as a defendant in this case, for its own separate demurrer and says that it appears speci-

ally for the purposes of filing and presenting this demurrer and for grounds thereof says:

1. The court has no jurisdiction of the person of the defendant, it being only an unincorporated voluntary association, and as such can neither sue or be sued.

Wherefore it prays that this demurrer be sustained, and for all proper relief.

COVINGTON & GRANT
Attorneys for Defendant.

---

143 (Order, June 15, 1915, overruling Demurrer of Local Union, No. 340, to Complaint, and exceptions thereto.)

Before Judge Youmans.

This day comes Local Union No. 340 by Messrs. Covington & Grant, its attorneys, and files its separate demurrer to the complaint in the above entitled cause. Said demurrer coming on to be heard, the court being well and sufficiently advised in the premises, doth overrule the same. To which action of the court in overruling said demurrer the said defendant duly excepted at the time.

---

144 Demurrer of Local Union No. 1130, to Complaint.

Filed in U. S. District Court June 15, 1915.

Comes Local 1130, styled as a defendant in this case, for its own separate demurrer and says that it appears specially for the purpose of filing and presenting this demurrer and for grounds thereof says:

1. The court has no jurisdiction of the person of the defendant, it being only an unincorporated voluntary association, and as such can neither sue or be sued.

Wherefore it prays that this demurrer be sustained, and for all proper relief.

COVINGTON & GRANT
Attorneys for Defendant.

---

145 (Order, June 15, 1915, overruling Demurrer of Local Union, No. 1130, to Complaint and Exceptions thereto.)

Before Jurge Youmans.

This day comes Local Union No. 1130 by Messrs. Covington & Grant, its attorneys, and files its separate demurrer to the

complaint in the above entitled cause. Said Demurrer coming on to be heard, the court being well and sufficiently advised in the premises, doth overrule the same. To which action of the court in overruling said demurrer the said defendant duly excepted at the time.

---

146 Demurrer of Local Union No. 1561, to Complaint.

Filed in U. S. District Court, June 15, 1915.

Comes Local 1561, styled as a defendant in this case, for its own separate demurrer and says that it appears specially for the purposes of filing and presenting this demurrer and for grounds thereof says:

1. The court has no jurisdiction of the person of the defendant, it being only an unincorporated voluntary association, and as such can neither sue or be sued.

Wherefore it prays that this demurrer be sustained, and for all proper relief.

COVINGTON & GRANT
Attorneys for Defendant

---

147 (Order, June 15, 1915, overruling Demurrer of Local Union, No. 1561, to Complaint and Exceptions thereto.)

Before Judge Ycumans.

This day comes Local Union No. 1561 by Messrs. Covington & Grant, its attorneys, and files its separate demurrer to the complaint in the above entitled cause. Said Demurrer coming on to be heard, the court being well and sufficiently advised in the premises, doth overrule the same. To which action of the court in overruling said demurrer the said defendant duly excepted at the time.

---

148 Motion to Quash Service of summons on Local Union No. 560.

Filed in U. S. District Court June 15, 1915.

Comes Local 560, designated as a defendant herein appearing specially for the purpose of filing, presenting this motion and having it determined, but for no other purpose whatever, and moves the court to quash the summons issued and the pretended service of the same, for the following reasons:

1. It is not a corporation, citizen of any state or country, or legal entity or person, that it is an unincorporated associa-

tion composed of many persons who are engaged in laboring as coal miners, and is in law a myth; that it can neither sue or be sued, there is no authority of law for issuing a summons against it or for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve a summons upon the said local the same was served by delivering a true copy and reading the original to Chas. Lennier as Secretary of said local, which is no service upon it, there being no authority of law to serve a summons upon in that manner, and that the said Chas. Lennier is not a person upon whom process may be served to bind this said local.

Wherefore, it prays the court to sustain this motion to quash the summons and pretended return of the United States Marshal on the same, and for all other proper relief.

COVINGTON & GRANT
Attorneys for Defendant.

---

149 Motion to Quash Service of summons on Local Union No. 586.

Filed in U. S. District Court June 15, 1915.

Comes Local 586, designated as a defendant herein appearing specially for the purpose of filing, presenting this motion and having it determined, but for no other purpose whatever, and moves the court to quash the summons issued and the pretended service of the same, for the following reasons:

1. It is not a corporation, citizen of any state or country, or legal entity or person, that it is an unincorporated association composed of many persons who are engaged in laboring as coal miners, and is in law a myth; that it can neither sue or be sued, there is no authority of law for issuing a summons against it or for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve a summons upon the said local the same was served by delivering a true copy and reading the original to H. L. Scott as Secretary of said local, which is no service upon it, there being no authority of law to serve a summons upon it in that manner, and that the said H. L. Scott is not a person upon whom process may be served to bind this said local.

Wherefore, it prays the court to sustain this motion to quash the summons and pretended return of the United States Marshal on the same, and for all other proper relief.

COVINGTON & GRANT
Attorneys for Defendant.

---

150 Motion to Quash Service of summons on Local Union No. 1526.

Filed in U. S. District Court June 15, 1915.

Comes Local 1526, designated as a defendant herein appearing specially for the purpose of filing, presenting this motion and having it determined, but for no other purpose whatever, and moves the court to quash the summons issued and the pretended service of the same, for the following reasons:

1. It is not a corporation, citizen of any state or country, or legal entity or person, that it is an unincorporated association composed of many persons who are engaged in laboring as coal miners, and is in law a myth; that it can neither sue or be sued, there is no authority of law for issuing a summons against it or for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve a summons upon the said local the same was served by delivering a true copy and reading the original to Dave Stewart as Secretary of said local, which is no service upon it, there being no authority of law to serve a summons upon it in that manner, and that the said Dave Stewart is not a person upon whom process may be served to bind this said local.

Wherefore, it prays the court to sustain this motion to quash the summons and pretended return of the United States Marshal on the same, and for all other proper relief.

COVINGTON & GRANT
For Defendant.

---

151 Motion to Quash Service of summons on Local Union No. 1530.

Filed in U. S. District Court June 15, 1915.

Comes Local 1530, designated as a defendant herein appearing specially for the purpose of filing, presenting this

motion and having it determined, but for no other purpose whatever, and moves the court to quash the summons issued and the pretended service of the same, for the following reasons:

1. It is not a corporation, citizen of any state or country, or legal entity or person, that it is an unincorporated association composed of many persons who are engaged in laboring as coal miners, and is in law a myth; that it can neither sue or be sued, there is no authority of law for issuing a summons against it or for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that attempting to serve a summons upon the said local the same was served by delivering a true copy and reading the original to Arthur Blakeley as Secretary of said local, which is no service upon it, there being no authority of law to serve a summons upon it in that manner, and that the said Arthur Blakely is not a person upon whom process may be served to bind this said local.

Wherefore, it prays the court to sustain this motion to quash the summons and pretended return of the United States Marshal on the same, and for all other proper relief.

COVINGTON & GRANT
Attorneys for Defendant.

---

152 Motion to Quash Service of summons on Local Union No. 1810.

Filed in U. S. District Court June 15, 1915.

Comes Local 1810, designated as a defendant herein appearing specially for the purpose of filing, presenting this motion and having it determined, but for no other purpose whatever, and moves the court to quash the summons issued and the pretended service of the same, for the following reasons:

1. It is not a corporation, citizen of any state or country, or legal entity or persons, that it is an unincorporated association composed of many persons who are engaged in laboring as coal miners, and is in law a myth; that it can neither sue or be sued, there is no authority of law for issuing a summons against it or for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that

in attempting to serve a summons upon the said local the same was served by delivering a true copy and reading the original to W. H. Dana as Secretary of said local, which is no service upon it, there being no authority of law to serve a summons upon it in that manner, and that the said W. H. Dana is not a person upon whom process may be served to bind this said local.

Wherefore, it prays the court to sustain this motion to quash the summons and pretended return of the United States Marshal on the same, and for all other proper relief.

COVINGTON & GRANT
Attorneys for Defendant.

---

153 Motion to Quash Service of summons on Local Union No. 1814.

Filed in U. S. District Court June 15, 1915.

Comes Local 1814, designated as a defendant herein appearing specially for the purpose of filing, presenting this motion and having it determined, but for no other purpose whatever, and moves the court to quash the summons issued and the pretended service of the same, for the following reasons:

1. It is not a corporation, citizen of any state or country, or legal entity or persons, that it is an unincorporated association composed of many persons who are engaged in laboring as coal miners, and is in law a myth; that it can neither sue or be sued, there is no authority of law for issuing a summons against it or for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve a summons upon the said local the same was served by delivering a true copy and reading the original to J. M. Nickolls as Secretary of said local, which is no service upon it, there being no authority of law to serve a summons upon it in that manner, and that the said J. M. Nickolls is not a person upon whom process may be served to bind this said local.

Wherefore, it prays the court to sustain this motion to quash the summons and pretended return of the United States Marshal on the same, and for all other proper relief.

COVINGTON & GRANT
Attorneys for Defendant.

---

154 Motion to Quash Service of summons on Local Union No. 1842.

Filed in U. S. District Court June 15, 1915.

Comes Local 1842, designated as a defendant herein appearing specially for the purpose of filing, presenting this motion and having it determined, but for no other purpose whatever, and moves the court to quash the summons issued and the pretended service of the same, for the following reasons:

1. It is not a corporation, citizen of any state or country, or legal entity or person, that it is an unincorporated association composed of many persons who are engaged in laboring as coal miners, and is in law a myth; that it can neither sue or be sued, there is no authority of law for issuing a summons against it or for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve a summons upon the said local the same was served by delivering a true copy and reading the original to W. H. Boyd as Secretary of said local, which is no service upon it, there being no authority of law to serve a summons upon it in that manner, and that the said W. H. Boyd is not a person upon whom process may be served to bind this said local.

Wherefore, it prays the court to sustain this motion to quash the summons and pretended return of the United States Marshal on the same, and for all other proper relief.

COVINGTON & GRANT
Attorneys for Defendant.

---

155 Motion to Quash Service of summons on Local Union No. 1912.

Filed in U. S. District Court June 15, 1915.

Comes Local 1912, designated as a defendant herein appearing specially for the purpose of filing, presenting this motion and having it determined, but for no other purpose whatever, and moves the court to quash the summons issued and the pretended service of the same, for the following reasons:

1. It is not a corporation, citizen of any state or country, or legal entity or person, that it is an unincorporated association composed of many persons who are engaged in labor-

ing as coal miners, and is in law a myth; that it can neither sue or be sued, there is no authority of law for issuing a summons against it or for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve a summons upon the said local the same was served by delivering a true copy and reading the original to Jim Patte as Secretary of said local, which is no service upon it, there being no authority of law to serve a summons upon it in that manner, and that the said Jim Patte is not a person upon whom process may be served to bind this said local.

Wherefore, it prays the court to sustain this motion to quash the summons and pretended return of the United States Marshal on the same, and for all other proper relief.

COVINGTON & GRANT,
Attorneys for Defendant.

---

156 Motion to Quash Service of summons on Local Union No. 1934.

Filed in U. S. District Court June 15, 1915.

Comes Local 1934 designated as a defendant herein appearing specially for the purpose of filing, presenting this motion and having it determined, but for no other purpose whatever, and moves the court to quash the summons issued and the pretended service of the same, for the following reasons:

1. It is not a corporation, citizen of any state or country, or legal entity or persons, that it is an unincorporated association composed of many persons who are engaged in laboring as coal miners, and is in law a myth; that it can neither sue or be sued, there is no authority of law for issuing a summons against it or for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve a summons upon the said local the same was served by delivering a true copy and reading the original to Frank Postorozyk as Secretary of said local, which is no service upon it, there being no authority of law to serve a summons upon it in that manner, and that the said Fank Postorozyk is not a person upon whom process may be served to bind this said local.

Wherefore, it prays the court to sustain this motion to quash the summons and pretended return of the United States Marshal on the same, and for all other proper relief.

COVINGTON & GRANT,
Attorneys for Defendant.

---

157 Motion To Quash Service Of Summons On Local Union No. 2053.

Filed in U. S. District Court June 15, 1915.

Comes Local 2053, designated as a defendant herein appearing specially for the purpose of filing, presenting this motion and having it determined, but for no other purpose whatever, and moves the court to quash the summons issued and the pretended service of the same, for the following reasons:

1. It is not a corporation, citizen of any state or country, or legal entity or person, that it is an unincorporated association composed of many persons who are engaged in laboring as coal miners, and is in law a myth; that it can neither sue or be sued, there is no authority of law for issuing a summons against it or for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve a summons upon the said local the same was served by delivering a true copy and reading the original to B. F. Mills as Secretary of said local, which is no service upon it, there being no authority of law to serve a summons upon it in that manner, and that the said B. F. Mills is not a person upon whom process may be served to bind this said local.

Wherefore, it prays the court to sustain this motion to quash the summons and pretended return of the United States Marshal on the same, and for all other proper relief.

COVINGTON & GRANT
Attorneys for Defendant.

---

158 Motion To Quash Service of summons on Local Union No. 2110.

Filed in U. S. District Court June 15, 1915.

Comes Local 2110, designated as a defendant herein appearing specially for the purpose of filing, presenting this motion and having it determined, but for no other purpose whatever, and moves the court to quash the summons issued and the pretended service of the same, for the following reasons:

1. It is not a corporation, citizen of any state or country, or legal entity or person, that it is an unincorporated association composed of many persons who are engaged in laboring as coal miners, and is in lay a myth; that it can neither sue or be sued, there is no authority of law for issuing a summons against it or for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve a summons upon the said local the same was served by delivering a true copy and reading the original to J. S. Williams as Secretary of said local, which is no service upon it, there being no authority of law to serve a summons upon it in that manner, and that the said J. S. Williams is not a person upon whom process may be served to bind this said local.

Wherefore, it prays the court to sustain this motion to quash the summons and pretended return of the United States Marshal on the same, and for all other proper relief.

COVINGTON & GRANT
Attorneys for Defendant.

---

159 Motion To Quash Service of summons on Local Union No. 2160.

Filed in U. S. District Court June 15, 1915.

Comes Local 2160, designated as a defendant herein appearing specially for the purpose of filing, presenting this motion and having it determined, but for no other purpose whatever, and moves the court to quash the summons issued and the pretended service of the same, for the following reasons:

1. It is not a corporation, citizen of any state or country, or legal entity or person, that it is an unincorporated association composed of many persons who are engaged in la-

boring as coal miners, and is in law a myth; that it can neither sue or be sued, there is no authority of law for issuing a summons against it or for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve a summons upon the said local the same was served by delivering a true copy and reading the original to Jno. O'Brien as Secretary of said local, which is no service upon it, there being no authority of law to serve a summons upon it in that manner, and that the said Jno. O'Brien is not a person upon whom process may be served to bind this said local.

Wherefore, it prays the court to sustain this motion to quash the summons and pretended return of the United States Marshal on the same, and for all other proper relief.

COVINGTON & GRANT
Attorneys for Defendant.

---

160 Motion To Quash Service of summons on Local Union No. 2027.

Filed in U. S. District Court June 15, 1915.

Comes Local 2027, designated as a defendant herein appearing specially for the purpose of filing, presenting this motion and having it determined, but for no other purpose whatever, and moves the court to quash the summons issued and the pretended service of the same, for the following reasons:

1. It is not a corporation, citizen of any state or country, or legal entity or person, that it is an unincorporated association composed of many persons who are engaged in laboring as coal miners, and is in law a myth; that it can neither sue or be sued, there is no authority of law for issuing a summons against it or for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve a summons upon the said local the same was served by delivering a true copy and reading the original to John Missick as Secretary of said local, which is no service upon it, there being no authority of law to serve a summons upon it in that manner, and that the said John

Missick is not a person upon whom process may be served to bind this said local.

Wherefore, it prays the court to sustain this motion to quash the summons and pretended return of the United States Marshal on the same, and for all other proper relief.

COVINGTON & GRANT
Attorneys for Defendant.

---

161 Motion To Quash Service of summons on Local Union No. 2494.

Filed in U. S. District Court June 15, 1915.

Comes Local 2494, designated as a defendant herein appearing specially for the purpose of filing, presenting this motion and having it determined, but for no other purpose whatever, and moves the court to quash the summons issued and the pretended service of the same, for the following reasons:

1. It is not a corporation, citizen of any state or country, or legal entity or person, that it is an unincorporated association composed of many persons who are engaged in laboring as coal miners, and is in law a myth; that it can neither sue or be sued, there is no authority of law for issuing a summons against it or for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve a summons upon the said local the same was served by delivering a true copy and reading the original to Vest Strunk as Secretary of said local, which is no service upon it, there being no authority of law to serve a summons upon it in that manner, and that the said Vest Strunk is not a person upon whom process may be served to bind this said local.

Wherefore, it prays the court to sustain this motion to quash the summons and pretended return of the United States Marshal on the same, and for all other proper relief.

COVINGTON & GRANT
Attorneys for Defendant.

---

162 Motion To Quash Service of summons on Local Union No. 2766.

Filed in U. S. District Court June 15, 1915.

Comes Local 2766, designated as a defendant herein appearing specially for the purpose of filing, presenting this motion and having it determined, but for no other purpose whatever, and moves the court to quash the summons issued and the pretended service of the same, for the following reasons:

1. It is not a corporation, citizen of any state or country, or legal entity or person, that it is an unincorporated association composed of many persons who are engaged in laboring as coal miners, and is in law a myth; that it can neither sue or be sued, there is no authority of law for issuing a summons against it or for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve a summons upon the said local the same was served by delivering a true copy and reading the original to J. M. Stewart as Secretary of said local, which is no service upon it, there being no authority of law to serve a summons upon it in that manner, and that the said J. M. Stewart is not a person upon whom process may be served to bind this said local.

Wherefore, it prays the court to sustain this motion to quash the summons and pretended return of the United States Marshal on the same, and for all other proper relief.

COVINGTON & GRANT
Attorneys for Defendant.

---

163 Motion To Quash Service of summons on Local Union No. 2769.

Filed in U. S. District Court June 15, 1915.

Comes Local 2769, designated as a defendant herein appearing specially for the purpose of filing, presenting this motion and having it determined, but for no other purpose whatever, and moves the court to quash the summons issued and the pretended service of the same, for the following reasons:

1. It is not a corporation, citizen of any state or country, or legal entity or person, that it is an unincorporated asso-

ciation composed of many persons who are engaged in laboring as coal miners and is in law a myth; that it can neither sue or be sued, there is no authority of law for issuing a summons against it or for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve a summons upon the said local the same was served by delivering a true copy and reading the original to Willis M. Litton as Secretary of said local, which is no service upon it, there being no authority of law to serve a summons upon it in that manner, and that the said Willis M. Litton it not a person upon whom process may be served to bind this said local.

Wherefore, it prays the court to sustain this motion to quash the summons and pretended return of the United States Marshal on the same, and for all other proper relief.

COVINGTON & GRANT
Attorneys for Defendant.

---

164 Motion To Quash Service of summons on Local Union No. 2770.

Filed in U. S. District Court June 15, 1915.

Comes Local 2770, designated as a defendant herein appearing specially for the purpose of filing, presenting this motion and having it determined, but for no other purpose whatever, and moves the court to quash the summons issued and the pretended service of the same, for the following reasons:

1. It is not a corporation, citizen of any state or country, or legal entity or person, that it is an unincorporated association composed of many persons who are engaged in laboring as coal miners, and is in law a myth; that it can neither sue or be sued, there is no authority of law for issuing a summons against it or for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve a summons upon the said local the same was served by delivering a true copy and reading the original to D. M. Griswold as Secretary of said local, which is no service upon it, there being no authority of law to serve a summons upon it in that manner, and that the said

D. M. Griswold is not a person upon whom process may be served to bind this said local.

Wherefore, it prays the court to sustain this motion to quash the summons and pretended return of the United States Marshal on the same, and for all other proper relief.

COVINGTON & GRANT
Attorneys for Defendant.

---

165 Motion to Quash Service, of summons on Local Union No. 2772.

Filed in U. S. District Court June 15, 1915.

Comes Local 2772, designated as a defendant herein appearing specially for the purpose of filing, presenting this motion and having it determined, but for no other purpose whatever, and moves the court to quash the summons issued and the pretended service of the same, for the following reasons:

1. It is not a corporation, citizen of any state or country, or legal entity or person, that it is an unincorporated association composed of many persons who are engaged in laboring as coal miners, and is in law a myth; that it can neither sue or be sued, there is no authority of law for issuing a summons against it or for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve a summons upon the said local the same was served by delivering a true copy and reading the original to Joe Fell as Secretary or said Local, which is no service upon it, there being no authority of law to serve a summons upon it in that manner, and that the said Joe Fell is not a person whom process may be served to bind this said local.

Wherefore, it prays the court to sustain this motion to quash the summons and pretended return of the United States Marshal on the same, and for all other proper relief.

COVINGTON & GRANT
Attorneys for Defendant.

---

166 Motion to Quash Service, of summons on Local Union No. 2880.

Filed in U. S. District Court June 15, 1915.

Comes Local 2880, designated as a defendant herein appearing specially for the purpose of filing, presenting this motion

and having it determined, but for no other purpose whatever, and moves the court to quash the summons issued and the pretended service of the same, for the following reasons:

1. It is not a corporation, citizen of any state or country, or legal entity or person, that it is an unincorporated association composed of many persons who are engaged in laboring as coal miners, and is in law a myth; that it can neither sue or be sued, there is no authority of law for issuing a summons against it or for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in attempting to serve a summons upon the said local the same was served by delivering a true copy and reading the original to Roy Crawford as Secretary of said local, which is no service upon it, there being no authority of law to serve a summons upon it in that manner, and that the said Roy Crawford is not a person upon whom process may be served to bind this said local.

Wherefore, it prays the court to sustain this motion to quash the summons and pretended return of the United States Marshal on the same, and for all other proper relief.

COVINGTON & GRANT
Attorneys for Defendant.

---

167 Motion to Quash Service, of summons on Local Union No. 2841.

Filed in U. S. District Court June 15, 1915.

Comes Local 2841, designated as a defendant herein appearing specially for the purpose of filing, presenting this motion and having it determined, but for no other purpose whatever, and moves the court to quash the summons issued and the pretended service of the same, for the following reasons:

1. It is not a corporation, citizen of any state or country, or legal entity or person, that it is an unincorporated association composed of many persons who are engaged in laboring as coal miners, and is in law a myth; that it can neither sue or be sued, there is no authority of law for issuing a summons against it or for serving a summons upon it.

2. That the return of the United States Marshal made upon the summons issued against it in this case shows that in at-

tempting to serve a summons upon the said local the same was served by delivering a true copy and reading the orignal to J. S. Flanner as Secretary of said local, which is no service upon it, there being no authority of law to serve a summons upon it in that manner, and that the said J. S. Flanner is not a person upon whom process may be served to bind this said local.

Wherefore, it prays the court to sustain this motion to quash the summons and pretended return of the United States Marshal on the same, and for all other proper relief.

COVINGTON & GRANT
Attorneys for Defendant.

---

168 (Order, June 15, 1915, overruling Separate Motions of Local Union, No 560, and others to quash Service of summons and Exceptions thereto.)

Before Judge Youmans.

This day comes Local Union No. 560 by Messrs. Covington & Grant, its attorneys, and files its motion to quash the summons and the service thereof as to it in the above entitled cause. Said motion coming on to be heard, the court being well and sufficiently advised in the premises, doth overrule the same. To which action of the court in overruling said motion the said defendant excepted at the time.

This day comes Local Union No. 586 by Messrs. Covington & Grant, its attorneys, and files its motion to quash the summons and the service thereof as to it in the above entitled cause. Said motion coming on to be heard, the court being well and sufficiently advised in the premises, doth overrule the same. To which action of the court in overruling said motion the said defendant duly excepted at the time.

This day comes Local Union No. 1526 by Messrs. Covington & Grant, its attorneys, and files its motion to quash the summons and the service thereof as to it in the above entitled cause. Said motion coming on to be heard, the court being well and sufficiently advised in the premises, doth overrule the same. To which action of the court in overruling said motion the said defendant duly excepted at the time.

This day comes Local Union No. 1530 by Messrs. Covington & Grant, its attorneys, and files its motion to quash the summons and the service thereof as to it in the above entitled cause. Said motion coming on to be heard, the court

being well and sufficiently advised in the premises, doth
169 overrule the same. To which action of the court in overruling said motion the said defendant duly excepted at the time.

This day comes Local Union No. 1810 by Messrs Covington & Grant, its attorneys, and files its motion to quash the summons and the service thereof as to it in the above entitled cause. Said motion coming on to be heard, the court being well and sufficiently advised in the premises, doth overrule the same. To which action of the court in overruling sair motion the said defendant duly excepted at the time.

This day comes Local Union No. 1814 by Messrs. Covington & Grant, its attorneys, and files its motion to quash the summons and the service thereof as to it in the above entitled cause. Said motion coming on to be heard, the court being well and sufficiently advised in the premises, doth overrule the same. To which action of the court in overruling said motion the said defendant duly excepted at the time.

This day comes Local Union No. 1842 by Messrs. Covington & Grant, its attorneys, and files its motion to quash the summons and the service thereof as to it in the above entitled cause. Said motion coming on to be heard, the court being well and sufficiently advised in the premises, doth overrule the same. To which action of the court in overruling said motion the said defendant duly excepted at the time.

This day comes Local Union No. 1912, by Messrs. Covington & Grant, its attorneys, and files its motion to quash the summons and the service thereof as to it in the above entitled cause. Said motion coming on to be heard, the court being well and sufficiently advised in the premises, doth overrule the same. To which action of the court in overruling said
170 motion the said defendant duly excepted at the time.

This day comes Local Union No. 1934 by Messrs. Covington & Grant, its attorneys, and files its motion to quash the summons and the service thereof as to it in the above entitled cause. Said motion coming on to be heard, the court being well and sufficiently advised in the premises, doth overrule the same. To which action of the court in overruling said motion the said defendant duly excepted at the time.

This day comes Local Union No. 2053 by Messrs. Covington & Grant, its attorneys, and files its motion to quash the summons and the service thereof as to it in the above entitled cause. Said motion coming on to be heard, the court being well and sufficiently advised in the premises, doth over-

rule the same. To which action of the court in overruling said motion the said defendant duly excepted at the time.

This day comes Local Union No. 2110 by Messrs. Covington & Grant, its attorneys, and files its motion to quash the summons and the service thereof as to it in the above entitled cause. Said motion coming on to be heard, the court being well and sufficiently advised in the premises, doth overrule the same. To which action of the court in overruling said motion the said defendant duly excepted at the time.

This day comes Local Union No. 2160 by Messrs. Covington & Grant, its attorneys, and files its motion to quash the summons and the service thereof as to it in the above entitled cause. Said motion coming on to be heard, the court being well and sufficiently advised in the premises, doth overrule the same. To which action of the court in overrul-
171 ing said motion the said defendant duly excepted at the time.

This day comes Local Union No. 2027 by Messrs. Covington & Grant, its attorneys, and files its motion to quash the summons and the service thereof as to it in the above entitled cause. Said motion coming on to be heard, the Court being well and sufficiently advised in the premises, doth overrule the same. To which action of the court in overruling said motion the said defendant duly excepted at the time.

This day comes Local Union No. 2494 by Messrs. Covington & Grant, its attorneys, and files its motion to quash the summons and the serivec thereof as to it in the above entitled cause. Said motion coming on to be heard, the court being well and sufficiently advised in the premises, doth overrule the same. To which action of the court in overruling said motion the said defendant duly excepted at the time.

This day comes Local Union No. 2766 by Messrs. Covington & Grant, its attorneys, and files its motion to quash the summons and the service thereof as to it in the above entitled cause. Said motion coming on to be heard, the court being well and sufficiently advised in the premises, doth overrule the same. To which action of the court in overruling said motion the said defendant duly excepted at the time.

This day comes Local Union No. 2769 by Messrs. Covington & Grant, its attorneys and files its motion to quash the summons and the service thereof as to it in the above entitled cause. Said motion coming on to be heard, the court being well and sufficiently advised in the premises, doth over-

rule the same. To which action of the court in overruling said motion the said defendant duly excepted at the time.

172 This day comes Local Union No. 2770 by Messrs. Covington & Grant, its attorneys, and files its motion to quash the summons and the service thereof as to it in the above entitled cause. Said motion coming on to be heard, the court being well and sufficiently advised in the premises, doth overrule the same. To which action of the court in overruling said motion the said defendant duly excepted at the time.

This day comes Local Union No. 2772 by Messrs. Covington & Grant, its attorneys, and files its motion to quash the summons and the service thereof as to it in the above entitled cause. Said motion coming on to be heard, the court being well and sufficiently advised in the premises, doth overrule the same. To which action of the court in overruling said motion the said defendant duly excepted at the time.

This day comes Local Union No. 2841 by Messrs. Covington & Grant, its attorneys, and files its motion to quash the summons and the service thereof as to it in the above entitled cause. Said motion coming on to be hear, the court being well and sufficiently advised in the premises, doth overrule the same. To which action of the court in overruling said motion the said defendant duly excepted at the time.

This day comes Local Union No. 2880 by Messrs. Covington & Grant, its attorneys, and files its motion to quash the summons and the service thereof as to it in the above entitled cause. Said motion coming on to be heard, the court being well and sufficiently advised in the premises, doth overrule the same. To which action of the court in overruling said motion the said defendant duly excepted at the time.

---

173 (Demurrer of United Mine Workers of America and others, to Complaint.)

Filed in the U. S. District Court, June 16, 1915.

Come now the United Mine Workers of America; Local No. 340; Local No. 560; Local No. 586; Local No. 1526; Local No. 1810; Local No. 1842; Local No. 1912; Local No. 2110; Local No. 2494; Local No. 2766; Local No. 2769; Local No. 2770; Local No. 2772; Local No. 2841; Local No. 2880; Local No. 1530; Local No. 2053; Local No. 1934; Local No. 1814; Local No. 2027; Local No. 2160; Local No. 1130; Local No. 1561, appearing specially for the purpose of filing, presenting and having

determined this demurrer, but for no other purpose whatever, and without waiving any of their respective rights under the motion to quash the summons and return of the United States Marshal thereon, and the service of summons upon it, heretofore filed and overruled, and still insisting upon the same, and reserving all rights under said motions, demurs to the complaint filed against it herein for the following reasons to-wit:

Each of the above named defendants demurs separately and severally as follows:

First: If it be true that the Hartford Coal Company, the Mammoth Vein Coal Company, the Coronado Coal Company, and the Prairie Creek Coal Mining Company were engaged in interstate commerce at the time of the alleged acts causing the damages sued for, and there is a cause of action against
174 these defendants, or any of them, on account of such wrongs, then the plaintiffs just named, if entitled to sue at all, are compelled to sue under the laws of the United States known as the Federal Anti-Trust Laws, and their cause of action would be exclusively cognizable under such laws, and there is no authority of law to join the plaintiffs just named with the Denman Coal Company, Mammoth Vein Coal Mining Company, Sebastian County Coal Company, Mammoth Vein Royalty Company, who are not engaged in interstate commerce, and were not so engaged at the time of the alleged acts causing the damages sued for, and who are compelled by law to recover against these defendants under the statute or common law of the State of Arkansas, if at all, for the wrongs sued for.

Therefore, these defendants named above, say that there is a misjoinder of parties plaintiffs, and that this demurrer ought to be sustained.

Second: If it be true that the Hartford Coal Company, the Mammoth Vein Coal Company, the Coronado Coal Company, and the Prairie Creek Coal Mining Company were engaged in interstate commerce at the time of the alleged acts causing the damages sued for, and there is a cause of action against these defendants or any of them, on account of such wrongs, then the plaintiffs just named, if entitled to sue at all, are compelled to sue under the laws of the United States known as the federal anti-trust laws, and their cause of action would be exclusively cognizable, under such laws, and there is no authority of law to join their cause of action with a cause of action accruing to the Denman Coal Company, Mammoth Vein Coal Mining Company, Sebastian County Coal Company,
175 Mammoth Vein Royalty Company, who are not engaged in interstate commerce, and were not so engaged

at the time of the alleged acts causing the damages sued for, and who are compelled by law to recover against these defendants under the statute or common law of the State of Arkansas, if at all, for the wrongs sued for.

Therefore the defendants named above say that there is a misjoinder of causes of action, and that this demurrer ought to be sustained.

Third: That the complaint fails to show upon its face that the plaintiffs named in the complaint have a joint interest in the money sued for, therefore there is a misjoinder of parties plaintiffs in this case.

Fourth: That the complaint fails to show upon its face that the plaintiffs named in the complaint have a joint interest in the money sued for, but it shows that their interests are separate and distinct, therefore there is a misjoinder of causes of action.

And the said defendants further demurring, generally, to the complaint, say:

First: The complaint does not state facts sufficiently to constitute a cause of action.

Second: That the court has no jurisdiction of the person or either of the defendants, or of the subject of the action, it apppearing upon the face of the complaint that neither of the plaintiffs were engaged in interstate commerce at the time of the alleged acts causing the damages sued for, and that there is no diversity of citizenship between the plaintiffs and defendants, and that these defendants are voluntary unincorporated associations, and, as such, they have no power
176 of suing and can not be sued.

Wherefore these defendants pray that this demurrer be sustained and for all proper relief.

COVINGTON & GRANT,
Attorneys for Defendants.

---

177 (Record Entry, June 16, 1915, of the filing of Demurrer of United Mine Workers of America et al., to Complaint.)

Before Judge Youmans.

This day come the defendants, United Mine Workers of America, Local Union No. 340, Local Union No. 560, Local Union No. 586, Local Union No. 1526, Local Union No. 1810,

Local Union No. 1842, Local Union No. 1912, Local Union No. 2110, Local Union No. 2494, Local Union No. 2766, Local Union No. 2769, Local Union No. 2770, Local Union No. 2772, Local Union No. 2841, Local Union No. 2880, Local Union No. 1530, Local Union No. 2053, Local Union No. 1934, Local Union No. 1814, Local Union No. 2027, Local Union No. 2160, Local Union No. 1130, and Local Union No. 1561, by Messrs. Covington & Grant, their attorneys, and file demurrer in the above entitled cause.

---

178 (Order, July 6, 1915, sustaining Demurrer of United Mine Workers of America, and others to Original Complaint, and granting Plaintiffs Leave to File Amended Complaint.)

Before Judge Youmans.

On this day there came on to be heard the demurrer of the defendants heretofore filed, and the court having heard argument of counsel and having taken the consideration of said demurrer under advisement, and being well and sufficiently advised in the premises, is of the opinion that said demurrer should be sustained on the ground that this court has no jurisdiction.

It is, therefore, by the court ordered, considered and adjudged that the said demurrer be and it is hereby sustained on the ground that this court has no jurisdiction to hear and determine this cause, to which ruling of the court the plaintiffs at the time excepted, and the plaintiffs asked leave of court to file an amended complaint herein, which leave was granted, and

Now come the plaintiffs in the afternoon of this day and file their amended complaint.

---

179 Amended Complaint.

Filed in U. S. District Court July 6, 1915.

In the District Court for the Western District of Arkansas, Fort Smith Division.

Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining

Company, each and all by A. S. Dowd, Receiver, and A. S. Dowd, Receiver, Plaintiffs,

vs.

United Mine Workers of America, P. R. Stewart, Fred Holt, John P. White, as President of United Mine Workers of America, P. R. Stewart, as President of United Mine Workers of America of District No. 21, James Mullen, National Executive Board member United Mine Workers of America, William McLaughlin, William McLaughlin, as President United Mine Workers of America of District No. 21, Tom King, Tom King as Board member of United Mine Workers of America, Jess Edwards, Charley Farley, Edward Cunningham and Edward Cunningham, as President of District No. 21, United Mine Workers of America, Frank J. Hayes and Frank J. Hayes as Vice President of the United Mine Workers of America, William Green and William Green as Secretary-Treasurer of the United Mine Workers of America, Joe Overman, O. A. Brooke, Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charles Hendricks, Jim Lee, Jake Thompson, George Burnett, Pink Dunn, Jim McNamara, Pete McMullen, John Mastell, James Slankard, Local Union No. 340, United Mine Workers of America, Local Union No. 374, United Mine Workers of America, Local Union No. 586, United Mine Workers of America, Local Union No. 1130, United Mine Workers of America, Local Union No. 1159, United Mine Workers of America, Local Union No. 1526, United Mine Workers of America, Local Union No. 1530, United Mine Workers of America, Local Union No. 1565, United Mine Workers of America, Local Union No. 1810, United Mine Workers of America, Local Union No. 1814, United Mine Workers of America, Local Union No. 1824, United Mine Workers of America, Local Union No. 1842, United Mine Workers of America, Local Union No. 1912, United Mine Workers of America, Local Union No. 1934, United Mine Workers of America, Local Union No. 2027, United Mine Workers of America,
180 Local Union No. 2053, United Mine Workers of America, Local Union No. 2110, United Mine Workers of America, Local Union No. 2160, United Mine Workers of America, Local Union No. 2316, United Mine Workers of America, Local Union No. 2494, United Mine Workers of America, Local Union No. 2766, United Mine Workers of America, Local Union No. 2769, United Mine Workers of America, Local Union No. 2770, United Mine Workers of America, Local Union No. 2772, United Mine Workers of America, Local Union No. 2841, United Mine Workers of America,

Local Union No. 2880, United Mine Workers of America, M. B. Appleby, Bruce Jordan, Whit Miller, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Joe Coneoda, B. Trout, Joe Assola, and many other defendants too numerous to name, Defendants.

Come the plaintiffs, and by leave of court file this their amended complaint herein, and for cause of action against the defendants above named, and each of them, the plaintiffs state as follows:

In the case of Coronado Coal Company, et al, vs. Sebastian County Coal Mining Company, et al, No. 246 Equity, pending on the equity side in this court, F. Bache was appointed as Receiver of all of the companies named as plaintiffs herein, and thereafter in the same cause said F. Bache resigned as Receiver, and A. S. Dowd the other plaintiff named above was appointed as the receiver in succession. The said receiver filed a bond required by law, and by the order of the court and immediately took possession of all of the property and assets of the said companies.

The said companies are corporations, and all of their property and assets are now in the hands of A. S. Dowd, as Receiver. Before the filing of the bill in equity in this court in the case in which said F. Bache was appointed as receiver and prior to the 17th day of July, 1914, the plaintiffs who were operating coal companies, to-wit: The Hartford Coal Company, the Mammoth Vein Coal Company, the Coronado Coal Company, and the Prairie Creek Coal Mining Company were engaging in interstate commerce. The said companies
181 had been and were engaged in the mining of coal, and in the buying and selling of coal and in the shipping of coal through and into the various states of the United States, selling and transporting said coal to states other than Arkansas, including the States of Oklahoma, Texas, Missouri, and other states. The said plaintiffs were the owners of a business and the good will of said business and were associated together as operating companies and owned a good business in interstate commerce, and owned the good will of that business and said good will of said business was a valuable property right and existed in the States of Oklahoma, Arkansas, Texas, Missouri, and other states, and exceeded the sum of three thousand dollars. The said plaintiffs were engaged in interstate commerce, and the larger part of the coal mined by said companies was being disposed of in interstate commerce. The said companies owned coal mines, located in the State of Ark-

ansas, and a part of said plaintiffs owned coal properties, including producing mines in the State of Oklahoma. The production of coal in the State of Oklahoma and the State of Arkansas by the plaintiffs was carried on as a unit business. The Denman Coal Company owned an interest in the Arkansas business, and was also owner of coal properties in the State of Oklahoma.

The said coal companies owned coal mines for the purpose of mining coal in order to sell the same, and they were selling the same in the various states of the United States, and said coal companies have for a number of years been engaged in said interstate commerce, and have been engaged in the buying and selling of coal in the States of Arkansas, Oklahoma, and other states, and the production of coal in the State of Arkansas was only a small part of the business of the plaintiffs. Much of
the coal of the plaintiffs was produced in the State of
182 Arkansas at the mines of the plaintiffs in the State of
Arkansas. The said coal was produced there for the purpose of transporting and selling the same in the interstate commerce business of the plaintiffs above set forth. The business of the plaintiffs consisted not only in the production of coal in the State of Arkansas, but in the transportation and sale of coal in the other states and the production of coal in Arkansas was only one step in the interstate business of the plaintiffs.

As above stated, a part of the plaintiffs owned properties in other states, and all of the plaintiffs owned the good will in other states, and were engaged in interstate commerce in the other states, having their agents and other places of business in other states than Arkansas. The said agencies and business of the plaintiffs was located throughout the states above named, and was an interstate commerce business, pure and simple, and the conspiracy of the defendants hereinafter named was for the express purpose of destroying said interstate commerce business of the plaintiffs, including not only the mines in the State of Arkansas, but the good will and all of the other interstate business of the plaintiffs described above, and located in other states.

The plaintiffs, on July 17th, 1914, and prior thereto, were engaged in said interstate commerce, and actually had loaded on the cars ready for shipment coal, destined to points in interstate commerce, and said cars of coal were at the Mine No. Four of the plaintiffs hereinafter described and said coal was destroyed as a part of the conspiracy to destroy the business of the plaintiffs as hereinafter described.

The plaintiffs allege that the physical property of the plaintiffs located in the State of Arkansas was only a
183 part of the interstate commerce and the conspiracy of the defendants hereinafter described was formed and was carried out for the sole and express purpose of destroying the interstate commerce business of the plaintiffs in other states as well as in the State of Arkansas; and for the purpose of destroying said interstate commerce business as above described and defendants formed a conspiracy to destroy that part of the property of the plaintiffs located in the State of Arkansas for the purpose of destroying the interstate commerce business and engaged in that conspiracy to destroy that property for the purpose of crippling and injuring and destroying the interstate commerce business of the plaintiffs. The prime purpose of said conspiracy hereinafter described was to destroy the interstate commerce business by preventing the plaintiffs from shipping and selling coal in interstate commerce and to points in other states in the United States, and it was for the purpose of destroying that interstate business and irreparably damaging and injuring the plaintiffs that said conspiracy was formed and carried out. The prime object in the formation of said conspiracy was to destroy all the business of the plaintiffs, and in destroying the mine in the State of Arkansas, as hereinafter described, the said defendants were acting for the sole purpose of injuring and destroying and ruining the interstate commerce business of the plaintiffs, which was located in other states, which business consisted in the selling, transporting, buying and selling of coal in other states, and as above described. For the express purpose of injuring and destroying and ruining the said interstate commerce business of the plaintiffs, the defendants formed the conspiracy hereinafter named and carried the same out by the destruction of the said interstate commerce business of the plaintiffs as above described.

184 The plaintiffs allege that for the purpose of producing the coal which they were actually selling and transporting in interstate commerce the plaintiffs owned and operated certain coal mines in Sebastian County in the State of Arkansas hereinafter and more particularly described. The plaintiffs allege that the production of said coal was but one act in the interstate commerce herein described and the plaintiffs have for many years employed in the production of said coal in the State of Arkansas a large number of men and have invested in that branch of its interstate business large amounts of money, to-wit: more than

three quarters of a million dollars, and in their business of selling the product of the plaintiffs, and filling orders for coal, have built up and established a large interstate trade, employing more than 300 persons in producing and selling said coal, exceeding in value the sum of $100,000 per year.

The plaintiffs deemed it their right to manage and conduct their business without interference with individuals or associations, not connected with the business, and began the operation of their interstate business above described in April 1914, and then and there maintained the policy of refusing to suffer or to permit any person or organization to direct or control their said business and in consequence of said policy, the plaintiffs have conducted their said business upon the broad principle of not discriminating against any person seeking employment, because of his being or not being connected with any other organization and said plaintiffs have refused to enter into any agreement with any person or organization whereby the rights and privileges either of themselves or any employee would be jeopardized, surrendered or controlled by the miner's union or any person or any other organization, and the plaintiffs believe that
185 said policy was absolutely necessary in order that they might make a profit on the money and capital invested in said interstate commerce business. The plaintiffs have for many years, and were up to July 17th, 1914, engaged in trade and commerce among the several states of the union in selling and shipping almost the whole of their product of their mines, located in the State of Arkansas to dealers in the states heretofore named, the said shipment of coal amounting in value to hundreds of thousands of dollars a year.

The plaintiffs further allege that they, in the conduct of said Interstate Commerce business sent agents into the States of Oklahoma, Texas, Missouri, and other states to visit the dealers and to sell the coal to the dealers of coal in other states, and sent said agents to solicit orders for coal, said orders to be filled by coal to be shipped from said plaintiffs' mines, located in Sebastian County, State of Arkansas, said coal to be shipped to other points in other states, of the Union, and to be there disposed of in interstate commerce.

On and before July 17th, 1914, the plaintiffs had made preparations to do a large and profitable business with the dealers in coal in other states, and the condition of the business of the plaintiffs in such other states was such as to warrant the full belief that the ensuing coal season would be

successful and a profitable one to the plaintiffs. The plaintiffs were actually mining coal, and were availing themselves of the good will of the business throughout the states above named, and actually had some coal loaded for shipment in interstate commerce to points in other states than the State of Arkansas.

The plaintiffs further allege that they were almost wholly dependent upon the good will of their business in
186 other states, and the sale and shipment of coal as aforesaid to other states to keep their coal mines running and to keep their capital and business properly employed and the destruction of the trade and commerce of the plaintiffs with their customers in other states by reason of the destruction of said business as herein alleged by the combination and the conspiracy and acts of the defendants as hereafter set forth have been and now are of serious damage to the business of the plaintiffs as hereinafter set forth. The individual defendants named herein are either members of the unions hereinafter named or they are sympathizers with said unions, and acted with the unions in the conspiracy hereinafter set out.

The defendants herein, who are members of the union known as the United Mine Workers of America, and the other defendants sympathizing and acting with them are subdivided into national unions, district unions, and local unions, and are all known under the name of United Mine Workers of America. A great many of the said unions are located in the State of Arkansas, but many more ore located in the States of Texas, Oklahoma, Kansas and other coal producing states and they have an enormous membership, aggregating more than 25,000 persons. The said combination of persons known as the United Mine Workers of America control, edit, publish and issue various newspapers in which the acts and doings of said United Mine Workers of America are published and said papers are circulated widely among the members of the union, and the public, and the circulation of the papers affords a ready, convenient, and powerful vehicle for the dissemination of the news to the public and said newspapers were used by the defendants to incite and arouse all members of said union to the acts of violence hereinafter named and acts of violence were used for the purpose of destroying the interstate commerce of the plaintiffs.

187 The said defendants well knew that the destruction of the coal mines of the plaintiffs located in Sebastian

County would result in the destruction of the interstate commerce business of the plaintiffs, and the defendants entered into said conspiracy for the express purpose of destroying said coal mines so that the interstate commerce of the plaintiffs above described would be utterly destroyed with them and in pursuance of the general scheme and purpose to destroy the interstate commerce business of the plains entered upon the property of the plaintiffs, and destroyed that property located in Sebastian County, State of Arkansas, for the sole and express purpose of destroying the interstate commerce business of the plaintiffs, which commerce business is described above.

On and before July 17th, 1914, the Mammoth Vein Coal Mining Company was operating what is known as Mine No. 4 near Prairie Creek, Sebastian County, Arkansas. All of the other operating coal companies for which F. Bache was appointed Receiver were prior thereto either engaged in selling coal among the states of the union or were interested in the coal company that was engaged in interstate commerce. About the first of April, 1914, the Mammoth Vein Coal Mining Company began the operation of said Mine No. 4 upon what is known as the "open shop" plan. On April 6th, 1914, the defendants named above and others to the plaintiffs unknown conspired together to injure and destroy said Mine No. 4 and other property belonging to said coal companies, as more particularly hereinafter set out.

Again on July 17th, 1914, the said defendants and others to the plaintiffs unknown also destroyed said Mine No. 4 and other mines belonging to the coal companies above named.

188 The defendant, the United Mine Workers of America is a voluntary association, composed of a large number of miners of coal. John P. White, is the President of said United Mine Workers of America, and the said association of the United Mine Workers of America is divided into districts in the United States. One District, being District No. 21, includes the States of Texas, Oklahoma, and Arkansas. Within said states there are various members of the said United Mine Workers of America being united or formed into what is known as local unions. The local unions above named as defendants are local unions, and members of said United Mine Workers of America and they are located in the State of Arkansas. Each local union has a president and secretary upon whom service of process may be had. The said United Mine Workers of America is composed of a very large number of persons, and it is impos-

sible to make each one a party defendant to this cause. The said United Mine Workers of America is represented in its District No. 21 by P. R. Stewart, formerly President and William McLaughlin, a Board member or President, and Edward Cunningham as Vice President or resident, Tom King, a Board member, and James Mullen, a National Executive Board member, and also Frank L. Hayes, as Vice President and William Green, as Secretary-Treasurer. The said James Mullen is the agent of said United Mine Workers of America for the transaction of business for said association in the State of Arkansas. The defendant, John P. White, President of the said United Mine Workers of America does not live in the State of Arkansas, but the said James Mullen, who is the representative of the said United Mine Workers of America in Arkansas, lives at the town of Midland, and the plaintiffs allege that service of process may be had upon him as upon the said United Mine Workers of America.

189 The local unions named in the caption herein are local unions located in the State of Arkansas, and are members of said United Mine Workers of America. Some of the other defendants named are members of the said United Mine Workers of America, and some of the other defendants are not members of the said United Mine Workers of America, but co-operated with the said United Mine Workers of America in the said unlawful conspiracy in restraint of the interstate commerce hereinafter set out. The other defendants who are not members of the said United Mine Workers of America were and are sympathizers and co-operators with the United Mine Workers of America in the conspiracy hereinafter set out, and entered into the said conspiracy of said United Mine Workers of America, as hereinafter alleged and became co-conspirators therein.

On April 1st, 1914, the plaintiffs, Coal Companies had made preparations to do a large and profitable coal business with the consumers of coal and dealers in coal in other states of the union. The said United Mine Workers of America is an unlawful organization, being a combination in the form of a trust or conspiracy in the restraint of commerce among the several states. The said United Mine Workers of America is an unlawful organization for the further reason that it attempts to control and does control practically all of the labor engaged in the digging of coal in the States of Texas, Arkansas, Oklahoma, and other states, contrary to the laws of the United States regulating commerce. The plaintiffs allege that at least 90 per cent of the labor en-

gaged in the coal business in said states and in other states of the United States is labor that is controlled by said United Mine Workers of America, in violation of the anti-trust law of the United States. Under the plans, contracts, and unlawful agreements of said United Mine Workers of
190 America, no man can engage in the mining of coal as a laborer unless he is a member of the said United Mine Workers, or unless he becomes such member immediately after his engaging in laboring in the digging of coal.

That is by reason of the contract between said United Mine Workers of America, and the coal operators, no laborer can dig coal unless he promises to join as soon as he begins to dig coal. The object and purpose of said United Mine Workers of America is to control absolutely all the labor engaged in the coal business in the states above named, and in many other states of the United States, and the United Mine Workers of America does control the labor so engaged, as above set forth.

The Mammoth Vein Coal Mining Company on April 6th, 1914, and prior thereto, and afterwards did not have a contract with the United Mine Workers of America and began the mining of coal for the purpose of selling the same in interstate commerce with what is known as non-union labor or the "open shop" plan. The said Mammoth Vein Coal Mining Company offered employment to all laborers, regardless of whether they were members of the United Mine Workers of America. The local unions of the United Mine Workers of America, above named are located in Arkansas, and the larger part of them are located in the town of Huntington, Arkansas, Hartford, Arkansas, Midland, Arkansas, Prairie Creek, Arkansas, Hackett City, Arkansas, and Jenny Lind, Arkansas, and other places in Sebastian County, being in the coal mining region of said county. The said United Mine Workers of America and the other defendants named above and especially Joe Overman, O. A. Brooke, and Dr. W. C. Chambers, on April 6th, 1914, entered into an unlawful conspiracy to restrain the commerce between the states, the object and purpose of said conspiracy be-
191 ing with force and arms to prevent the Mammoth Vein Coal Mining Company and its associated companies from operating the mines upon the "open shop" or non-union plan. The said defendants, co-operating with them, whose names are unknown to the plaintiff, with force and arms entered upon the property of the Mammoth Vein Coal Mining Company, on April 6th, 1914, and damaged the same by driving and running away its employees, assault-

ing and beating them, dismantling its property, and permitting water to accumulate therein, thus damaging said Mammoth Vein Coal Mining Company in the sum of $20,000.00 The said Mammoth Vein Coal Mining Company was thereby injured in its business and property by the defendants by reason of their unlawful conspiracy above described, which conspiracy was in restraint of commerce and trade among the states.

Further complaining, the plaintiffs state that the other parties co-operating with them, and whose names are to the plaintiffs unknown continued in the unlawful interference with and restraint of trade and commerce among the states, and continuously down to the present time are engaged in said unlawful conspiracy in restraining trade and commerce, among the states, and at various times used acts of violence in carrying out said conspiracy against the plaintiffs herein to prevent the Mammoth Vein Coal Mining Company and its associated companies from operating upon the non-union plan.

The plaintiffs further allege that on July 17th, the said defendants and others co-operating with them unlawfully and for the purpose of accomplishing their said conspiracy in restraint of trade and commerce unlawfully and with force and arms entered upon the property of the plain-
192 tiffs used in interstate commerce, including Mine No. 3, the Dalas Mine, and other mines and properties, and Mine No. 4, and destroyed the same witth fire and dynamite and destroyed other mines belonging to the other coal companies and greatly damaged the same to the great injury and damage of the plaintiffs in the total sum of $427,820.77.

The plaintiffs allege that said damages and injury are itemized as follows, including the damage of April 6th, 1914, and of July 17th, 1914, to-wit:

193 Hartford Coal Company

Property damage outside.....	$ 1,000.00
Inside damage	16,000.00
Loss of profits 10 mos.....	25,440.00
	$42,440.00

Mammonth Vein Coal Mining Company

Mine No. 1.

Property damage outside	40,000.00
Inside damage	20,000.00
Loss of profits 10 mos	11,200.00
Dead royalty	2,000.00

Mine No. 3.

Property damage outside	3,000.00
Inside damage	12,000.00

Mine No. 4.

Property damage outside	30,000.00
Inside damage	37,000.00
Loss of profits 10 mos	22,400.00
	177,600.00

Mammoth Vein Coal Company

Mine No. 6.

Inside damage	10,000.00
Loss of profits 10 mos	18,880.00
Royalty credit	2,175.00
Loss of house rents	2,312.00

Mine No. 1.

Loss of profits 10 mos	21,760.00
	55,127.00

Coronado Coal Company

Property damage outside	32,000.00
Inside damage	37,000.00
Loss of profits 9 mos	27,780.00
Loss of house rents	1,134.00
	97,914.00

Prairie Creek Coal Mining Company

Loss of profits 10 mos	34,240.00
Dead rents	8,015.77
Loss of house rents	3,384.00
	45,639.77

Mammoth Vein Royalty Company		
Loss of royalties	4,000.00	4,000.00
Sebastian County Coal Company		
Loss of royalties	5,100.00	5,100.00
Total		427,820.77

194 The said conspiracy of the defendants was an unlawful contract combination and conspiracy in restraining of trade and commerce among the several states of the United States in violation of the Anti-Trust Act of Congress of July 2, 1890. The said plaintiffs, as above shown, by reason of said unlawful combination and conspiracy of the defendants, and each of them were damaged and injured in their business and property in the total sum of $427,820.77. The plaintiffs by reason of the provisions of said Act of Congress of July 2, 1890, are entitled to recover of and from the defendants, and each of them, the penalty prescribed by said Act of Congress, which is three times the actual value of the property injured, and destroyed. The said plaintiffs are, therefore, entitled to recover of and from the defendants and each of them the total sum of One Million, Two Hundred Eighty-three thousand, four hundred sixty-two dollars and thirty-one cents ($1,283,462.31) and all costs and reasonable attorneys fees, as provided in said Act of Congress.

The plaintiffs allege that the said United Mine Workers of America and each member thereof and the other defendants above named and each local above named entered into said unlawful conspiracy above described, and destroyed said property in violation of said Act of Congress, and in violation of the plaintiffs' rights and to the great damage and injury of the plaintiffs, as above set forth.

The individual defendants named above were either members of the said United Mine Workers of America or they co-operated with said United Mine Workers of America in the destruction of plaintiffs' property in violation of said law as above alleged. The said voluntary association as an association endorsed the destruction of said property,
195 and the local unions and the officers and members of District No. 21 fully endorsed the action of the unions, and the action of the United Mine Workers of America in destroying said property and injuring the plaintiffs in violation of said law of the United States.

The plaintiffs allege that the said United Mine Workers of America has no property known to the plaintiffs except the funds which it has to its credit in the American National Bank of Fort Smith, Arkansas, and the dues which are paid to it by said United Mine Workers of America by the members thereof, which dues are paid through the coal operators and in Arkansas are paid through the Western Coal & Mining Company, the Central Coal & Coke Company, the Bolen-Darnall Coal Company, the Branner Coal Company, and other coal companies operating in the State of Arkansas and other states. The said United Mine Workers of America have entered into a contract with the coal operators in District No. 21, and under that contract there will be due and paid to said United Mine Workers of America in said District No. 21 and in other states, especially the States of Kansas, and Oklahoma, large sums of money. A part of said funds belonging to said United Mine Workers of America is now in the American National Bank of Fort Smith, Arkansas, and large sums will also be due from the coal companies above named, to-wit: The Central Coal & Coke Company, the Western Coal & Mining Company, the Bolen-Darnall Coal Company, the Branner Coal Company, and the other coal companies. And these plaintiffs have no other means of having any judgment which they may obtain against the defendants satisfied other than having said sums of money attached and garnished and impounded in the
196 hands of said coal companies and said bank. The said defendants are about to remove and will remove a material part of their property out of said state, not leaving enough therein to satisfy the claim of the said plaintiffs, and therefore said plaintiffs ask an attachment against said funds and ask that a writ of garnishment herein be issued against the American National Bank of Fort Smith, Arkansas, and the Western Coal & Mining Company, the Central Coal & Coke Company, the Bolen-Darnall Coal Company, and the Branner Coal Company, and such other parties as plaintiffs may show to have in their hands money and property belonging to said defendants. The said plaintiffs ask that each of said defendants, be and such others as may be suggested be served with said writ of garnishment and attachment, and that the said garnishees be required to answer herein, and plaintiffs herewith tender a good and sufficient bond and also tender said affidavit required by law for said writs of garnishment and attachment.

Premises considered, the plaintiffs pray judgment against the said United Mine Workers of America and each of the

defendants in the sum of One Million, Two Hundred Eighty-three thousand, four hundred sixty-two dollars and thirty-one cents, and all costs and reasonable attorneys fees herein.

Second Count.

For further cause of action against the defendants, the plaintiffs herein allege the facts as set forth in the first count above, and further state that the said unlawful conspiracy, formed by the said defendants, as set forth in said first count which is made a part hereof was formed unlawfully and wilfully, and with the unlawful and
197 willful purpose and design of preventing the plaintiffs from operating their mines, and of injuring and destroying as, shown above. The said plaintiffs were damaged by reason of said conspiracy in the sum of $427,820.77, and said plaintiffs are entitled to recover that sum as actual damages, and are entitled to recover the further sum of double that amount as punitive damages, or a total sum of $1,283,462.31.

Premises considered, the plaintiffs pray judgment against the defendant for said sum of $1,283,462.31, and all costs herein laid out and expended and for reasonable attorneys fees.

READ & McDONOUGH
Attorneys for Plaintiffs.

Affidavit.

I, A. S. Dowd, on oath state that I am the Receiver referred to in the above and foregoing complaint, and that the matters and things set forth in the above complaint are true to the best of my knowledge and belief.

Affiant further states in support of the application of the plaintiffs for order of attachment and writs of garnishment herein as follows:

First: The plaintiffs, claim is due for the destruction by the defendants of the plaintiffs' property as described in the complaint, and for treble damages as provided in the Anti-Trust Act of Congress. The property of the plaintiffs was destroyed unlawfully, willfully, and knowingly by the defendants.

Second: The said claim is just and plaintiffs are entitled to recover the amount claimed in the above and foregoing complaint. The amount which this affiant believes that

198 plaintiffs ought to recover is set forth in the complaint, and is the sum of $1,283,462.31.

And affiant further states that the defendants are about to remove and have removed a material part of their property out of the State of Arkansas, and not leaving enough therein to satisfy the claim of the plaintiffs.

.....

Subscribed and sworn to before me this.....day of July, 1915.

.....
Notary Public.

---

199 Notice of Application for leave to File Second Amended Complaint.

Filed in U. S. District Court, July 13, 1915.

To Covington & Grant, Attorneys for Defendants:

You are hereby notified that at 3 o'clock this afternoon, July 13th, 1915, at the office of the Honorable Frank A. Youmans, Judge of the United States District Court for the Western District of Arkansas, the plaintiffs herein will ask leave of the court to file their second amended complaint in the cause herein; this notice being given in order that you may be present, and give any reasons you may have why permission to file a second amended complaint should not be granted.

JAMES B. McDONOUGH,
Attorney for Plaintiffs.

Service of this notice is hereby accepted this the 13 day of July, 1915, at 12 M.

COVINGTON & GRANT.

---

200 (Order, July 13, 1915, granting leave to file Second Amended Complaint and Exceptions thereto.)

Before Judge Youmans.

This day come the plaintiffs by James B. McDonough, their attorney, and come the defendants by G. L. Grant, their attorney, and the plaintiffs ask leave to file their second amended complaint in the above entitled cause, which leave is granted by the court, and plaintiffs file their second amended complaint.

Defendants at the time objected to the filing of said second amended complaint on the ground that having heretofore filed

an amended complaint their rights in the premises in that respect, if any, had already been exhausted. And the said objection being by the court overruled the defendants duly excepted thereto, and to the action of the court in allowing the filing of said second amended complaint.

---

201 Second Amended Complaint.

Filed in U. S. District Court July 13, 1915.

In the District Court for the Western District of Arkansas,

Fort Smith Division.

Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by A. S. Dowd, Receiver, and A. S. Dowd, Receiver, Plaintiffs,

vs.

United Mine Workers of America, P. R. Stewart, Fred Holt, John P. White, as President of United Mine Workers of America, P. R. Stewart, as President of United Mine Workers of America of District No. 21, James Mullen, National Executive Board Member United Mine Workers of America, William McLaughlin, William McLaughlin, as President of United Mine Workers of America District No. 21, Tom King as Board member of United Mine Workers of America, Jess Edwards, Charley Farley, Edward Cunningham, and Edward Cunningham, as President of District No. 21 United Mine Workers of America, Frank J. Hayes and Frank J. Hayes as Vice President of the United Mine Workers of America, William Green and William Green as Secretary-Treasurer of the United Mine Workers of America, Joe Overman, O. A. Brooke, Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charles Hendricks, Jim Lee, Jake Thompson, George Burnett, Pink Dunn, Jim McNamara, Pete McMullen, John Mastell, James Slankard, Local Union No. 340, United Mine Workers of America, Local Union No. 374, United Mine Workers of America, Local Union No. 560, United Mine Workers of America, Local Union No. 586, United Mine Workers of America, Local Union No. 1130, United Mine Workers of America, Local Union No. 1159, United Mine Workers of America, Local Union No. 1526, United Mine Workers of America, Local Union No. 1530, United Mine Workers of America,

Local Union No. 1565, United Mine Workers of America,
Local Union No. 1810, Mine United Workers of America,
Local Union No. 1814, United Mine Workers of America,
Local Union No. 1824, United Mine Workers of America,
Local Union No. 1842, United Mine Workers of America,
Local Union No. 1912, United Mine Workers of America,
Local Union No. 1934, United Mine Workers of America,
Local Union No. 2027, United Mine Workers of America,
202 Local Union No. 2053, United Mine Workers of America,
Local Union No. 2110, United Mine Workers of America,
Local Union No. 2160, United Mine Workers of America,
Local Union No. 2316, United Mine Workers of America,
Local Union No. 2494, United Mine Workers of America,
Local Union No. 2766, United Mine Workers of America,
Local Union No. 2769, United Mine Workers of America,
Local Union No. 2770, United Mine Workers of America,
Local Union No. 2772, United Mine Workers of America,
Local Union No. 2841, United Mine Workers of America,
Local Union No. 2880, United Mine Workers of America,
M. B. Appleby, Bruce Jordan, Whit Miller, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Joe Coneoda, B. Trout, Joe Assola, and many other defendants too numerous to name, Defendants.

Additional Defendants. (Attached by lv of ct Aug 2, 1915)

Joe Kervillas, Wm. Rodden, Chas. Blackburn, Joe Lanier, Albert Hunter, Rich Handlin, Scott Adkins, Frank Petty, Claud Litchford, John Litchford, Otto Alimen, Carey Crumpton, Wm. Price, Peter McMullen, Jr., John Murray, Sam Wooten, Marion Hulsey, Maje Hulsey, Tom Watson, Derwood Warren, Harry Birkett, Willis Congo, Leslie Congo, Bud Congo, Chas. McKown, J. W. Howard, Bud Williams, (Col) John T. W. Davis, Brock Smith, (Col) Ed Kehee,

Come the plaintiffs, and by leave of court, file this their second amended complaint herein, and for cause of action against the defendants above named, and each of them, the plaintiffs state as follows:

1. In the case of Coronado Coal Company, et al., vs. Sebastian County Coal Mining Company, et al., No. 246 Equity, pending on the equity side in this court, F. Bache in a single decree was appointed Receiver of all of the companies above named as plaintiffs herein, and thereafter in the same cause said F. Bache resigned as Receiver, and A. S. Dowd, one of the plaintiffs above named, was appointed as the receiver in succession. The said A. S. Dowd, as Receiver, filed a bond

required by law, and by the order of the court, and immediately took possession of all of the property and assets
203 of the said companies, and all of their property and assets are now in the hands of A. S. Dowd, as Receiver.

2. That the Bache-Denman Coal Company, the Coronado Coal Company, the Denman Coal Company, and the Mammoth Vein Coal Mining Company, were at the time of the appointment of said Receiver, and for many years prior thereto and still are, corporations organized and existing under the laws of the State of West Virginia; and the Mammoth Vein Royalty Company, the Mammoth Vein Coal Company, the Prairie Creek Coal Mining Company and the Sebastian County Coal Company were at the time of the appointment of said Receiver and for many years prior thereto and still are, corporations organized and existing under the laws of the State of Arkansas; that the Hartford Coal Company was at the time of the appointment of said Receiver and for many years prior thereto and still is, a corporation organized under the laws of the State of Oklahoma or Indian Territory.

3. That the Hartford Coal Company, the Mammoth Vein Coal Company, the Mammoth Vein Coal Mining Company, the Coronado Coal Company and the Prairie Creek Coal Mining Company and each and every one of them were at the time of the appointment of said Receiver and for many years prior thereto, operating coal companies engaged in the production, loading, and shipment of coal for interstate trade and commerce and the coal lands of each of said companies from which said coal was mined and shipped were located in Sebastian County in the State of Arkansas.

4. That prior to the year 1914 and before the commencement of the difficulties hereinafter set forth, the Hartford Coal Company employed about Seventy men; the Mammoth
204 Vein Coal Company employed about Three Hundred men; the Coronado Coal Company employed about Two Hundred and Fifty men, and the Prairie Creek Coal Mining Company employed about Two Hundred and Fifty men, and that all of said operatives were employed by said respective companies in connection with the production, loading and shipment of coal in or about their respective mines for interstate trade and commerce, and that the value of the annual shipments and sale of coal by said mines respectively exceeded the following:

Hartford Coal Company,	$ 50,000.
Mammoth Vein Coal Company,	120,000.
Coronado Coal Company,	175,000.
Prairie Creek Coal Mining Co.,	120,000.

That seventy-five percent of the coal shipped by each of said mines was sold and shipped to customers outside of the State of Arkansas in the ordinary course of interstate trade and commerce.

That prior to April in the year 1914, the Mammoth Vein Coal Mining Company entered into a written contract with the Mammoth Vein Coal Company and the Prairie Creek Coal Mining Company wherein and whereby it agreed to operate and produce coal from mines of the said Mammoth Vein Coal Company and the Prairie Creek Coal Mining Company for and in behalf of said companies, said Mammoth Vein Coal Company and said Prairie Creek Coal Mining Company continue to sell and ship the coal so produced from their said respective mines as theretofore, the Prairie Creek Coal Mining Company selling and shipping the coal mined by said Mammoth Vein Coal Mining Company from the mines formerly operated by the Prairie Creek Coal Mining Company and the Mammoth Vein Coal Company continuing to sell and ship the coal produced by the Mammoth Vein Coal Mining Company from the mines formerly operated by said Mammoth Vein Coal Company, and that 75 percent of the output of each of
205 said mines was so produced, loaded and shipped for customers outside of the State of Arkansas in the course of interstate trade and commerce.

That the Denman Coal Company, the Bache-Denman Coal Company, the Sebastian County Coal Company, the Mammoth Vein Coal Company, and the Mammoth Vein Royalty Company, and each and every one of them were financially interested in one or more of the aforesaid operating companies either through contracts or the lease of coal lands on which said operating coal companies were working or through the ownership of all or the majority of the stock of said operating companies.

5. That the mining of coal, as conducted by said operating companies, is not a manufacturing business, but includes only the taking of the coal in its natural condition from the earth and loading it on the cars of common carriers for transportation by them over their lines to the respective consignees and that about 75% of the shipments of said operating companies were made by common carriers on Interstate trains to points outside of the State of Arkansas, including the States of Okla-

homa, Kansas, Nebraska, Texas, and Missouri; that among the employees, which each of said companies required for the conduct of said Interstate trade and business, were those who placed the cars of Interstate carriers in convenient places on the side tracks of said carriers for loading for Interstate shipments, those who loaded said cars of common carriers on said tracks with coal for shipment to points outside of the state, and those who placed said cars so loaded for points outside of the state in their proper place on the tracks of said carriers where they could be hauled by the engines of said carrier over the tracks of said carriers and attached to Interstate freight trains for transportation to points outside of the state, and that the work of shipping coal when hereinafter mentioned, includes said loading and placing of said cars on the
206 tracks of said carriers; that the ownership and operation of said mines and the taking and producing of coal therefrom, was but one step in the said Interstate trade and business of said companies and that said companies were dependent for the profitable conduct of their business upon the trade which it secured from customers outside of the State of Arkansas, and owned and operated said mines in said State of Arkansas for the purpose of carrying on said Interstate trade and business and would not have purchased or attempted to operate said mines except for the purpose of carrying on said Interstate trade and business, and one of the principal assets of said companies was their good will, trade and business with customers outside of the State of Arkansas and said companies employed agents and salesmen in other states in order to protect, preserve, build up, and increase said Interstate trade, business and good will.

6. That the United Mine Workers of America is an unincorporated association of mine workers engaged in or about the work of mining and shipping coal in different mines in different states throughout the United States, and that its headquarters are located in the City of Indianapolis in the State of Indiana and it is subdivided into about Thirty districts and numerous local unions located in different states of the United States; that said local unions are also a part of the particular district branch having jurisdiction of the territory in which said local union is situated; that every member of any of said local unions and districts is a member of the United Mine Workers of America and subject to the rules laid down in its constitution and by-laws as well as the constitution and by-laws of the various districts and local unions having jurisdic-

tion over them respectively; that the membership of
207 said United Mine Workers of America exceeds Four Hundred Thousand miners, most of whom are employed by the various union mines hereinafter described.

7. That each of the District branches and Local Unions which are apart of the said United Mine Workers of America are agencies created by said United Mine Workers of America to carry out the purposes and objects of said National Organization and more particularly to act with and for said National Organization in carrying out the general combination and conspiracy in the restraint of interstate trade and commerce as hereinafter more fully set forth.

8. That Defendant District 21 of the United Mine Workers of America is one of the aforesaid District Branches of said United Mine Workers of America and has jurisdiction over all Union mines and miners in the States of Arkansas, Oklahoma, and Texas, and that all of the defendant Local Unions above named are affiliated with and subject to the laws of said District #21.

9. That the Local Unions named in the caption as defendants herein are unincorporated associations of mine workers in the State of Arkansas, having a separate president and secretary upon whom process may be served, and said local unions and their members are a part of said United Mine Workers of America and their members are members of said United Mine Workers of America, and the members of each of said Local Unions are so numerous as to make it impracticable to make all of said members defendants herein, and therefore the plaintiffs pray that said Local Unions may be brought into court by service upon their respective officers.

10. That John P. White is president of said United Mine Workers of America and that because of the numerous members of said United Mine Workers of America, it is impossible to make each one a party defendant to this cause, but that said United Mine Workers of America is represented in its
208 District #21 by P. R. Stewart formerly president and William McLaughlin, a member of the executive board of District 21 or president thereof, Edward Cunningham as vice president or president thereof, Tom King, a member of said executive board, James Mullen, a member of the executive board of the United Mine Workers of America, and Frank L. Hayes, vice president of said United Mine Workers of America, William Greene, Secretary and Treasurer thereof; that James Mullen is the agent of said United Mine Workers of America for the transaction of all business by said organi-

zation in the State of Arkansas and resides in the town of Midland; and the plaintiffs allege that said defendants sufficiently represent the United Mine Workers of America for the purpose of this action and that the service of process upon them and the trial of the suit in which they are parties will constitute proper representation of the United Mine Workers of America.

11. That said United Mine Workers of America and the combination of the defendants hereinafter described, divides all coal mines in the several states of the United States into two classes one class being called "Union" or Organized mines, because they are operated under an agreement with the United Mine Workers of America or one of its District branches, to employ none but members of that Union in or about the work of producing, loading and shipping coal and to comply with all the rules and regulations of the United Mine Workers of America and its District branch having jurisdiction over the respective mines in accordance with their geographical location; the second group of said mines as so designated and classified by the defendants are known as Non-union, unorganized, or "Open shop" mines because they refuse to make such agreement with the defendants' combination to employ only members of the United
209 Mine Workers of America exclusively although many of them do not discriminate against or refuse to employ any person on the ground that he is a member of said Union. That the coal produced by said Union mines is hereinafter described or designated as Union coal, and the coal produced by the unorganized non-union or "Open Shop" mines is at times hereinafter designated as Non-union coal.

12. That owing to the restrictions and unreasonable regulations which the United Mine Workers of America imposes on all Union or organized mines, said mines are conducted wastefully and inefficiently and the cost of production and the selling price of Union coal is thereby unreasonably and unnecessarily enhanced and can not successfully compete with the products of Non-union mines throughout the course of Interstate trade and commerce, and it is because of this fact and to protect said Union mines against said Non-union competition in coal of the lower selling price that the United Mine Workers of America and those acting in conjunction with them, have divided all mines in the United States into two classes to be designated respectively as Union Mines or Non-union Mines in order that they may the more readily and effectively prevent and restrain all Interstate trade and competition in the products of Non-union mines.

13. That except for the anthracite coal mines in the State of Pennsylvania practically the entire business of mining and shipping coal in the United States is done by what is known as bituminous mines located in the States of Washington, Wyoming, Utah, and Montana in the Northwest; Illinois, Ohio, Indiana and Michigan in the northern Middle States; Iowa, Colorado, New Mexico, Kansas, Missouri, Oklahoma, Arkansas, Texas, Kentucky, Tennessee, and Alabama in the Middle and Southern States; and Pennsylvania, Virginia, West Virginia, and Maryland in the Eastern States; that each and every one of these bituminous mines in the several states above mentioned is engaged in or subject and
210 liable to competition in the course of Interstate trade, from the mines in one or more of the other states above named, and nearly every one of said mines is subject to competition of the mines of each and every one of the several states above named in reaching or attempting to reach different markets of the United States in various industrial centers in different states through the course of Interstate trade made possible by transportation of common carriers from one state to another.

14. That the mines for which the plaintiff is acting as Receiver when in operation, competed directly with the mines of Illinois, Kentucky, Alabama, New Mexico, Colorado, Kansas, Oklahoma and the other mines of Arkansas for the markets of Louisiana, Texas, Oklahoma, Nebraska, Kansas, Missouri, Iowa, and Minnesota, and are subject to the competition of said mines in endeavoring to reach the various markets of other states through the channels of Interstate trade and commerce. That the mines of Illinois sell coal through the course of Interstate trade and commerce to markets in Louisiana, Texas, Missouri, Nebraska, Kansas and other states, and the operating companies for which plaintiff Dowd is acting as Receiver, sold coal through the course of Interstate trade and commerce to purchasers in said markets and states and thereby entered into Interstate competition with said mines of Illinois in said states, and others, and are subject to and affected by the Interstate competition of said mines and others in many other states; that except for the unlawful interference of the defendants hereinafter set forth, each of said mines would have engaged in Interstate competition with the said mines of other states as aforesaid in the year 1914.

15. That all of said coal mines of Illinois, Ohio, In-
211 diana, Wyoming, Michigan, Missouri, Iowa, Texas, Arkansas and Oklahoma are Union, and

part of the bituminous mines of Pennsylvania, Kentucky, and West Virginia are Union, and that said mines of Colorado, New Mexico, Alabama, Virginia and Tennessee are Non-union or unorganized; that the annual output of bituminous coal in the United States is a little less than 500 million tons, of which the State of Pennsylvania produces over one-third; the States of Ohio, Illinois, and Indiana produce over one-fifth; and the State of West Virginia produces about one-seventh; that at least 60 per cent of the entire production of bituminous coal in the aforesaid states of the United States is produced by the so-called Union or organized mines; that if the attempts of the United Mine Workers and those working in conjunction with them in the unlawful conspiracy hereinafter set forth are successful in carrying out their conspiracy to unionize all the bituminous coal mines of Pennsylvania, West Virginia, Virginia and Colorado as hereinafter set forth, then about 90% of the bituminous coal produced in the United States which enters into Interstate trade and commerce will be coal produced by the so-called Union mines, and if the United Mine Workers of America were successful in all the attacks which it has made in different districts upon Non-union mines in furtherance of said unlawful conspiracy, the said combination would have substantially a complete monopoly of Interstate trade and commerce in coal in the United States and the amount of Non-union coal which entered into Interstate commerce would be negligible.

16. That the United Mines Workers of America, the defendants, and many other persons to the plaintiffs unknown, now are and for many years past, have been, engaged in an unlawful combination and conspiracy, as hereinafter
212 more fully set forth, in unlawful restraint of trade and commerce in coal among the different States of the United States, and through means whereof are unlawfully attempting to monopolize and are monopolizing said trade and commerce; that in furtherance of said unlawful combination and conspiracy, the defendants, the United Mines Workers of America, and those confederated together with them in said unlawful scheme have combined and conspired together to exclude and drive out of Interstate trade and commerce, and to restrain and prevent all Interstate trade and commerce in, any and all coal produced, loaded and shipped by so-called Non-union and unorganized mines by hampering, preventing, and interfering with the production, loading and shipment of coal for interstate commerce in any of the coal-mining states by any so-called un-

organized or Non-union mines, so that it can not become a subject or commodity of Interstate trade and commerce and can not enter into Interstate competition with the products of so-called Union or organized mines located in divers states, and to further carry out said conspiracy by hampering and interfering with the production, loading and shipent for Interstate trade and commerce by said Non-union or unorganized mines in any and all the several states where said mines are, or may be located, with the purpose and intent of increasing the cost of production, loading and shipment of said commodities so destined for Interstate trade and commerce and the resulting selling price thereof in the markets of the different states reached by said Interstate shipments, so that said commodities can not successfully compete in said markets with the coal produced, loaded and shipped by the so-called Union or organized mines working under agreement with said unlawful combination in the several states where located.

17. That one of the objects of said unlawful combi-
213 nation and conspiracy in restraint of Interstate trade is to monopolize the trade or occupation of mining coal for the members of the United Mine Workers of America and prevent the employment of Non-union men in any part of the United States at the trade or craft of mining coal and prevent the products of the labor of Non-union mines from becoming subjects or commodities of Interstate trade and commerce in order thereby to more effectually compel them to abandon the trade or vocation of coal mining or become members of the said United Mine Workers of America and thereby to secure complete monopoly and unification in control and management so far as labor is concerned of all competing mines in all parts of the United States as has already been achieved by said combination in many states as aforesaid.

18. That the scope and object of said illegal scheme is to suppress and destroy the business of all Non-union and unorganized mines whose products enter into Interstate trade and by various means to prevent any mining company from engaging in the business of selling coal for Interstate trade as an unorganized mine and prevent any of the so-called Union or organized mines from commencing operations as a Non-union or unorganized mine and thus by such suppression, obstruction, and destruction of the business of any of the independent and competing mines in the several states which are operating or may hereafter operate on a Non-union or unorganized basis, to completely monopolize In-

terstate trade and commerce for Union coal produced under the domination of the United Mine Workers of America, and maintain the price of said Union coal in Interstate commerce by protecting it from Interstate competition of coal which but for said combination would be mined by the more efficient Non-union mines.

19. That the object and purpose of said combination
214 in extending its domination and control over separate and competing mines in different states, which in the absence of said unlawful combination would be engaged in Interstate competition with each other, and the [sold] object and purpose of said combination in destroying or preventing Interstate shipments of coal by all mines in any of the coal-mining states, which do not acquiesce in its control and domination, is to prevent any coal not produced by Union mines from becoming a subject of Interstate commerce and entering into Interstate competition with the products of so-called Union mines and to further carry out agreements and understandings hereinafter described, between the proprietors of the so-called Union mines and said unlawful combination to the effect that the defendants and others acting in conjunction with them in said unlawful conspiracy will protect Interstate trade and business of said Union mines from the competition of unorganized mines by employing all the means available to organized labor to prevent the production, loading and shipment of coal for Interstate trade and commerce by unorganized mines.

20. That in furtherance of said unlawful combination and conspiracy to unduly restrain Interstate trade and commerce, and to exclude the products of all unorganized mines and Non-union miners from Interstate trade and commerce, the United Mine workers of America working through their District organizations, and the defendants, have ordered and coerced strikes of employees employed by unorganized mines in different states and by violence, intimidation, mobs and riots prevented the employment of any miners in said mines for production, loading or shipment of coal for Interstate commerce, and by dynamite and arson and other unlawful means have destroyed the facilities of said unorganized mines for producing, loading and shipping coal for
215 Interstate commerce and by divers other means have hampered, interfered with, prevented, and attempted to unduly enhance the cost of, producing, loading and shipping of coal by said unorganized mines for Interstate commerce, so that it would no longer be marketable as an article

or commodity of Interstate trade and commerce in competition with Union coal.

That each and every one of the acts hereinafter set forth, wherein and whereby the production, loading and shipment of coal by the plaintiffs or any other unorganized mines, was destroyed, interrupted, hampered or interfered with, were done and carried out in furtherance of the aforesaid combination and conspiracy to unduly and directly restrain Interstate trade and commerce and with the intent, purpose and effect thereof as hereinabove set forth, and with the purpose of effect of inducing and forcing persons and corporations formerly engaged in Interstate trade as Non-union mines to refrain therefrom until such times as they would carry on said business as Union mines upon terms dictated by said combination and conspiracy.

21. That in furtherance of the combination and conspiracy to restrain Interstate trade and commerce in bituminous coal and to prevent any Non-union coal from entering into Interstate trade and commerce, the United Mine Workers of America and its District branches have from time to time since 1898 entered into negotiations, understandings and agreements with the operators of Union Mines in the States of Ohio, Illinois, and Indiana and other states, wherein and whereby it was understood and agreed that in consideration of said operators agreeing to or continuing to operate Union mines, the said United Mine Workers of America, the defendants and those working in conjunction with them
216 in said unlawful scheme and purpose, would by strikes and the usual unlawful means which invariably accompany all strikes conducted by the United Mine Workers or any of its Branches, prevent the production and shipment of bituminous coal by all so-called Non-union and unorganized mines in other states whose products come into Interstate competition with the products of said Union mines through the course of Interstate trade and commerce, and that said agreement and understanding required said United Mine Workers and its said Branches to use all means in its power to interfere with and prevent Interstate commerce in bituminous coal by all unorganized mines and by all competitive mines which should thereafter become Non-union or unorganized and that the combination and conspiracy herein described to interfere with and destroy the business of the mines for which plaintiff Dowd is acting as Receiver, and all acts in furtherance thereof hereinafter described were done in pursuance of said illegal arrangement, contracts and understandings between the said United Mine

Workers and said Union Operators to destroy and prevent Interstate trade and commerce in bituminous coal from unorganized fields by destroying or interfering with the facilities of said unorganized mines for the production and shipment thereof.

22. That in furtherance of said illegal combination and conspiracy to restrain and prevent Interstate trade and commerce in bituminous coal and drive all Non-union coal out of Interstate trade and commerce, the said United Mine Workers of America and those working in conjunction with them, did at various times since 1898, embark and engage upon a general campaign and crusade to prevent all the Non-union bituminous mines in the State of Pennsylvania
217 which were producing about 12 per cent of the entire output of bituminous coal in the United States from engaging in Interstate trade and commerce in Non-union coal, by ordering a strike of employees in said mines and though violence, intimidation and threats, preventing the employment of any operatives for the production, loading and shipment of coal and by the use of fire and explosives destroying the facilities of said mines for the production, loading and shipping of said coal;

and that in or about the year 1911 said United Mine Workers and those acting in conjunction with them, did undertake to and did employ said means in furtherance of said lawful design against certain Non-union mines in Westmoreland and Irwin Districts in the State of Pennyslvania known as the Westmoreland and Irwin mines, in order to prevent said mines from engaging in Interstate trade and commerce in Non-union coal;

that in furtherance of said illegal combination and conspiracy to restrain trade among the several states in coal as hereinabove set forth, said United Mine Workers and those acting in conjunction with them, did in the year 1913 enter into a general campaign and crusade against Non-union mines in the State of Colorado and agreed to and did order, a strike of said employees of said various competing mines of said state and by violence, threats, and intimidation, did prevent said mines from procuring further employees to produce, load or mine coal for the Interstate trade and commerce of said mines, and did by the use of fire and explosives destroy the facilities of said mines for the production, loading, and shipment of coal for Interstate trade and commerce in order thereby to destroy Interstate trade and commerce in Non-union coal;

that at various times since 1906 and in furtherance of
218 said unlawful scheme to restrain trade in bituminous coal among the several states, said United Mine Workers and those acting in conjunction with them, did engage in a general campaign and crusade to destroy Interstate trade and business of the Non-union bituminous mines in West Virginia by ordering strikes of the employes of said companies engaged in the work of producing, loading and shipment of coal for Interstate trade and commerce and by violence, threats and explosives, and by preventing the employment of other operatives to carry on said work and by fire and explosives destroying the facilities of said mines for the production, loading and shipment of said coal for Interstate trade and commerce; and that said United Mine workers and those working in conjunction with them have from time to time on other occasions employed all of said means to destroy the business of all of said Non-union companies in Pennyslvania, West Virginia, Colorado other states in order thereby to prevent said companies from shipping Non-union coal for Interstate trade and commerce.

23. That early in the year 1914 all said companies for which the plaintiff Dowd is acting as Receiver decided that said operating companies should be conducted on a Non-union or open-shop basis without discrimination against any employee on the ground that he was or was not a member of any Union, and that about the middle of March, 1914, the Mammoth Vein Coal Company and the Prairie Creek Coal Mining Company closed down their said mines and discontinued operation as Union mines preparatory to re-opening upon the Non-union or openshop basis in the month of April 1914, that the Hartford Coal Company had not been in operation for over a year previous thereto but it was the plan
219 and intention of said Company to also re-open upon the Non-union or open-shop basis as soon as it became experient so to do, or at least in the summer of 1914; that the Coronado Coal Company continued operation as a Union company until April 18, 1914, when its employes were ordered out on a strike by the defendants in furtherance of the unlawful conspiracy herein set forth, because some of the individuals interested in said mines that were going to be operated as open-shops had also financial interests in said Coronado Coal Company and might use their profits from said company to carry on Interstate commerce in Non-union coal from said other mines; that before said strike took place and early in the year 1914, as aforesaid. It was the the intention of the said Coronado Coal Company and the per-

sons and corporations financially interested in it that said Company should be placed upon the Non-union or open-shops basis of operation as soon as expedient or at least by the summer of 1914; that said plan of operation for said mines was in part to be carried out by having the Mammoth Vein Coal Mining company operate the mines of the Mammoth Vein Coal Company and the Prairie Creek Coal Mining Company under its written contract described in Paragraph marked "4" herein.

24. That in the year 1914 each of said operating companies for which the plaintiff Dowd is acting as Receiver had made preparations to do a large and profitable business with dealers in coal in other states and to renew, manage, and conduct said interstate trade and commerce upon a Non-union and "open shop" basis and the condition of the market outside of the State of Arkansas in which said companies would sell their said coal and the condition of the business of said companies was such as to warrant the full belief that the ensuing season would be a profitable one to said
220 companies and that in the year 1914 when the defendants undertook to destroy the business of said operating companies, for which the plaintiff Dowd is now acting as Receiver, some of said operating companies had actually commenced, and were engaged in carrying on, said Interstate trade and business, and enjoying said Interstate good will and were shipping Non-union coal to customers in other states in the course of Interstate trade and commerce, and the rest of said operating companies were prepared to commence and renew their Interstate trade and business and were intending to renew said Interstate trade and business on a Non-union basis.

25. That at all times after April first, 1914, the defendants and those acting in conjunction with them in furtherance of the unlawful conspiracy hereinafter set forth, well knew of said intention, plans, and costly preparations of said companies, persons and corporations in control thereof, to operate each and every one of said mines in the future upon the open-shop or Non-union basis, and to sell and ship Non-union coal in Interstate commerce in competition with union mines, as soon as possible, and that all of the acts hereinafter described which were done by the Defendants and those acting in conjunction with them to injure and destroy the business and property of said Companies, were done in furtherance of said unlawful scheme and conspiracy to prevent Interstate trade and commerce in bituminous coal produced, loaded or shipped by so-called Non-union or open-shop mines.

26. That in April 1914 and at various times thereafter in furtherance of said plans to have all said companies engage in Interstate trade as Non-union mines, some of said operating companies for which plaintiff Dowd is acting as Receiver began to operate their said mines on an open-shop basis, or as Non-union or unorganized mines, and from time to time in the year 1914 employed large numbers of
221 men engaged respectively in the work of mining, loading and shipping coal for Interstate trade and commerce, preparatory to employing additional miners and opening additional mines for the purpose of carrying on an Interstate trade and commerce on a still larger scale, and preparatory to having all of said operating companies to do likewise. That none of the said miners so employed belonged to or had any connection or association with, the United Mine Workers of America, or any of its District branches or any of the Defendants, but that the defendants, the United Mine Workers of America and those acting in conjunction with them, in furtherance of their combination and conspiracy to drive Non-union coal out of Interstate trade and commerce and to restrain and prevent Interstate trade and commerce therein, and in furtherance of their understanding with the proprietors of Union mines competing with said mines, combined and conspired together in furtherance of said conspiracy, to ruin and destroy the Interstate trade and [and] commerce of said mines and to prevent them from commencing or engaging or continuing therein by interfering with and preventing the production, loading and shipment of coal for Interstate commerce by said mines and in furtherance of said combination and conspiracy, they agreed upon and did the following acts: By threats, intimidation, violence, and unlawful assemblies, they drove and frightened away all of the men employed by said mines at the work of mining, loading, and shipping coal for Interstate trade and commerce, including those men employed at the work of placing cars of Interstate carriers at the proper place on the tracks of said carriers where they could be loaded with coal for shipment outside of the state, and including those men em-
ployed in loading said cars of the common carriers,
222 and those who placed the cars after loading upon the proper part of the tracks of the common carrier where they could be taken up by the Interstate trains of said carriers for transportation to points outside of the state; and by threats, violence, murder, mobs, and riots, prevented the said companies from employing or obtaining for employment any other operatives to load said cars of Interstate carriers and to manipulate and place said cars before and after

loading for Interstate transporation in their proper place on the tracks of the carrier; and by the same unlawful methods, prevented said companies from employing or obtaining for employment any miners whatsoever to perform any of the work of mining, loading and shipping coal for said mines; and by the use of fire, dynamite and other explosives, they did destroy the structures and other valuable facilities, of said mines for production, loading, and shipment of coal for Interstate trade and commerce, and did destroy the cars of Interstate carriers, which were stationed at or about the mines waiting to be loaded with Interstate shipments, and destroyed cars of said carriers and shipments already loaded thereon to be hauled away by Interstate carriers for transportation to consignees outside of the State of Arkansas and destroyed the business of other concerns in which the same persons were interested in order to impoverish said persons and prevent their carrying on said Non-union coal-mining business; that by said unlawful means said defendants and those acting in conjunction with them prevented any of said companies from engaging or continuing to engage in Interstate trade and commerce; and the defendants well knew and intended that the destruction of the coal mines of said operating companies located in Sebastian County, Arkansas, and their interference with the operations thereof, would
223 result in the destruction of the Interstate trade and commerce of said companies, and the defendants destroyed said mines for the express purpose of entirely destroying and ruining said Interstate trade and business; that none of the defendants or anyone acting in conjunction with them had any interest or object in destroying said property and interfering with the operation of said mines as aforesaid, except in so far or said destruction and interference prevented the sale and shipment of coal by the said companies in competition with union mines in which said combination was interested, and their primary and direct object in so doing was to destroy the Interstate trade and commerce of said companies because it constituted 75 per cent of the trade and commerce conducted by them, and that the destruction of the working organization and production facilities of the said companies was but a step in a scheme and purpose to destroy Interstate trade and commerce in Non-union coal and prevent it from coming into competition with union coal in the course of Interstate trade and commerce.

27. That except for the unlawful combinatios and conspiracy of the defendants and the acts done in furtherance thereof as aforesaid, the said Hartford Coal Company, the Mammoth Vein Coal Company, the Coronado Coal Com-

pany, the Prairie Creek Coal Mining Company, and the Mammoth Vein Coal Mining Company would have, long prior to the commencement of this action and in a short time, secured employes to man their mines and engage in the work of producing, loading and shipping coal for Interstate trade and commerce and would as Non-union and unorganized mines have successfully shipped coal to the amount of over $600,000. annually in the aggreate and would have been able to realize a large profit thereon.

224 28 That by reason of said combination and conspiracy of the defendants in restraint of Interstate trade and commerce and the acts done in furtherance thereof to injure and destroy the business of the said companies for which the plaintiff Dowd is acting as Receiver, the said companies have suffered great loss and injury to their said business and property in the total sum of $427,820.77, and that said damages are more fully itemized as follows:

225 Hartford Coal Company

Property damage outside,	$1,000.00	
Inside damage	16,000.00	
Loss of profits,	25,440.00	
		$ 42,440.00

Mammoth Vein Coal Mining Company

Mine No. 1

Property damage outside,	40,000.00	
Inside damage,	20,000.00	
Loss of profits and leasehold,	11,200.00	
Dead royalty,	2,000.00	

Mine No. 3

Property damage outside,	3,000.00	
Inside damage,	12,000.00	

Mine No. 4

Property damage outside,	30,000.00	
Inside damage,	37,000.00	
Loss of profits,	22,400.00	177,600.00

Mammoth Vein Coal Company		
Mine No. 6		
Inside damage,	10,000.00	
Loss of profits and leasehold,	18,880.00	
Royalty credit,	2,175.00	
Loss of house rents	2,312.00	
Mine No. 1		
Loss of profits	21,760.00	
		55,127.00
Coronado Coal Company		
Property damage outside,	32,000.00	
Inside damage,	37,000.00	
Loss of profits and leasehold	27,780.00	
Loss of house rents,	1,134.00	
		97,914.00
Prairie Creek Coal Mining Co.		
Loss of profits and leasehold	34,240.00	
Dead rents,	8,015.77	
Loss of house rents,	3,384.00	
		45,639.77
Mammoth Vein Royalty Company		
Loss of royalties,	4,000.00	4,000.00
Sebastian County Coal Company		
Loss of royalties,	5,100.00	5,100.00
Total,		$427,820.77

226 29. The said conspiracy of the defendants was an unlawful contract, combination and conspiracy in restraint of trade and commerce among the several states of the United States in violation of the Anti-Trust Act of Congress of July 2, 1890. The said companies for which plaintiff Dowd is acting as Receiver were, by reason of said unlawful combination and conspiracy of the defendants, damaged and injured in their business and property in the total sum of $427,820.77. And by reason of the provisions of said

Act of Congress of July 2, 1890, the plaintiff Dowd as Receiver thereof is entitled to recover of and from the defendants, and each of them, the damages prescribed by said Act of Congress, which is three times the actual value of the property injured and destroyed, and plaintiff Dowd is, therefore, entitled to recover of and from the defendants and each of them the total sum of One Million, Two hundred eighty-three thousand, four hundred sixty-two dollars and thirty-one cents ($1,283,462.31) and all costs and reasonable attorneys fees, as provided in said Act of Congress.

30. The plaintiffs allege that the said United Mine Workers of America has no property known to the plaintiffs except the funds which it has to its credit in the American National Bank of Fort Smith, Arkansas, and the dues which are paid to it by said United Mine Workers of America by the members thereof, which dues are paid through the coal operators and in Arkansas are paid through the Western Coal & Mining Company, the Central Coal & Coke Company, the Bolen-Darnall Coal Company, the Branner Coal Company, and other coal companies operating in the State of Arkansas and other states. The said United Mine Workers of America have entered into a contract with the coal operators in District No. 21 and under that contract there will be
227 due and paid to said United Mine Workers of America in said District No. 21 and in other states, especially the States of Kansas and Oklahoma, large sums of money. A part of said funds belonging to said United Mine Workers of America is now in the American National Bank of Fort Smith, Arkansas, and large sums will also be due from the coal companies above named, to-wit: The Central Coal & Coke Company, the Western Coal & Mining Company, the Bolen-Darnall Coal Company, the Branner Coal Company, and the other coal companies. And these plaintiffs have no other means of having any judgment which they may obtain against the defendants satisfied other than having said sums of money attached and garnished and impounded in the hands of said coal companies and said bank. The said defendants are about to remove and will remove a material part of their property out of said state, not leaving enough therein to satisfy the claim of the said plaintiffs, and therefore said plaintiffs ask an attachment against said funds and ask that a writ of garnishment herein be issued against the American National Bank of Fort Smith, Arkansas, and the Western Coal & Mining Company, the Central Coal & Coke Company, the Bolen-Darnall Coal Company, and the Branner Coal Company, and such other par-

ties as plaintiffs may show to have in their hands money and property belonging to said defendants. The said plaintiffs ask that each of said defendants, be and such others as may be suggested be, served with said writ of garnishment and attachment, and that the said garnishees be required to answer herein, and plaintiffs herewith tender a good and sufficient bond and also tender said affidavit required by law for said writs of garnishment and attachment.

Premises considered, the plaintiffs pray judgment against the said United Mine Workers of America and each of the defendants in the sum of One Million, Two Hundred eighty-three thousand, four hundred sixty-two dollars
228 and thirty-one cents, and all costs and reasonable attorneys fees herein.

Second Count.

For further cause of action against the defendants, the plaintiffs herein allege the facts as set forth in the first count above, and further state that the said unlawful conspiracy, formed by the said defendants, as set forth in said first count which is made a part hereof was formed unlawfully and wilfully, and with the unlawful and willful purpose and design of preventing the plaintiffs from operating their mines, and of injuring and destroying, as shown above; the said plaintiffs were damaged by reason of said conspiracy in the sum of $427,830.77, and said plaintiffs are entitled to recover that sum as actual damages and are entitled to recover the further sum of double that amount as punitive damages, or a total sum of One Million, two hundred eighty-three thousand, four hundred sixty-two and 31/100 dollars ($1,283,462.31.)

Premises considered, the plaintiffs pray judgment against the defendants for said sum of $1,283,462.31 and all costs herein laid out and expended and for reasonable attorneys fees.

JAMES B. McDONOUGH,
Attorney's for Plaintiffs.

Affidavit.

I, A. S. Dowd, on oath state that I am the Receiver referred to in the above and foregoing complaint, and that the matters and things set forth in the above complaint are true to the best of my knowledge and belief.

Affiant further states in support of the application of the plaintiffs for order of attachment and writ of garnishment herein as follows:

First: The plaintiffs claim is due for the destruction by the defendants of the plaintiffs' property as de-
229 scribed in the complaint, and for treble damages as provided in the Anti-Trust Act of Congress. The property of the plaintiffs was destroyed unlawfully, willfully, and knowingly by the defendants.

Second: The said claim is just and plaintiffs are entitled to recover the amount claimed in the above and foregoing complaint. The amount which this affiant believes that plaintiffs ought to recover is set forth in the complaint, and is the sum of $1,283,462.31.

And affiant further states that the defendants are about to remove and have removed a material part of their property out of the State of Arkansas, and not leaving enough therein to satisfy the claim of the plaintiffs.

A. S. DOWD, Receiver.

Subscribed and sworn to before me this 13th day of July, 1915.

GEO. F. YOUMANS,
(Notarial Seal) Notary Public.

My commission expires Jan. 16, 1916.

---

230 Demurrer of United Mine Workers of America and Local Unions to Second Amended Complaint.

Filed in U. S. District Court August 2, 1915.

Come now the United Mine Workers of America, Local Unions Nos. 340, 560, 586, 1130, 1526, 1530, 1565, 1810, 1814, 1842, 1912, 1934, 2027, 2053, 2110, 2160 2494, 2766, 2769, 2770, 2772, 2841, 2880, of the United Mine Workers of America, appearing specially for the purpose of filing, presenting and having determined this demurrer to plaintiffs' second amended complaint, but for no other purpose whatever, and without waiving any of their respective right under their several motions to quash the summons and return of the United States Marshal thereon, and the pretended service of summons upon it, heretofore filed, presented and overruled, and each of said defendants severally protesting and contending that there has been no service upon them and insisting upon the said motions to quash, and reserving all rights under said motion, demurs separately and severally to the first count of the second amended complaint filed herein for the following reasons:

1. The court has no jurisdiction of either of the defendants, or of the subject of the action, it appearing upon the face of the complaint that neither of the plaintiffs were engaged in interstate commerce at the time of the alleged acts causing the damage sued for, within the meaning of said Act of Congress of July 2, 1890, commonly known as the Sherman Anti-Trust Law.

2. The complaint fails to disclose that this court has
231 any jurisdiction of the cause of action therein set forth for the reason that the acts of the defendants complained of were not an interference with interstate commerce, or a violation of the federal statute upon which the complaint is predicated.

3. The court has no jurisdiction of either of the defendants, or of the subject matter of the action, for the reason that these defendants are voluntary unincorporated associations, and as such they have no power of suing and can not be sued.

4. That the complaint shows upon its face that the plaintiffs named therein have no such community of interest in the money sued for as entitles them to sue jointly. Therefore, there is a misjoinder of parties plaintiffs in this action.

5. That the complaint shows on its face that the plaintiffs named therein have no joint interest in the money sued for; that their interests are separate, several and distinct. Therefore, there is a misjoinder of causes of action.

6. That said complaint does not allege any contract, combination or conspiracy in restraint of interstate trade or commerce within the meaning of the Sherman Anti-Trust Law.

7. That the complaint does not allege any acts of defendants monopolizing or attempting to monopolize, or combining or conspiring to monopolize any part of such trade or commerce, within the meaning of the Sherman Anti-Trust Law.

Wherefor, defendants pray that this demurrer be sustained.

II Count.

The defendants demur to the second count for the fol-
232 lowing reasons:

1. The court has no jurisdiction of either of the defendants, or of the subject matter of the action, it appear-

ing upon the face of the second count of the complaint that neither of the plaintiffs were engaged in interstate commerce at the time of the alleged acts causing the damages sued for, within the meaning of the Sherman Anti-Trust Law.

2. The complaint fails to disclose that this court has any jurisdiction of the cause of action therein set forth for the reason that the acts of the defendants complained of were not as interference with interstate commerce, or a violation of the federal statute upon which the complaint is predicated.

3. The court has no jurisdiction of the person of either of the defendants, or of the subject of the action for the reason that these defendants are voluntary unincorporated associations, and as such they have no power of suing or being sued.

4. That the complaint shows upon its face that the plaintiffs named therein have no such community of interest in the money sued for as entitled them to sue jointly. Therefore, there is a misjoinder of parties plaintiffs in this action.

5. That the complaint shows on its face that the plaintiffs named therein have no joint interest in the money sued for; that their interests are separate, several and distinct. Therefore, there is a misjoinder of causes of action.

6. That said complaint does not allege any contract, combination or conspiracy in restraint of interstate
233 trade or commerce within the meaning of the Sherman Anti-Trust Law.

7. That the complaint does not allege any acts of defendants monopolizing or attempting to monopolize, or combining or conspiring to monopolize any part of such trade or commerce, within the meaning of the Sherman Anti-Trust Law.

Wherefore, the defendants above named pray that this demurrer be sustained, and for all proper relief.

COVINGTON & GRANT,
Attorneys for Defendants.

234 Demurrer of P. R. Stewart, Et Al To Second Amended Complaint.

Filed in U. S. District Court August 2, 1915.

Come now P. R. Stewart, James Mullen, William McLaughlin, Tom King, Jesse Edwards, Charley Farley, Edward Cunningham, Frank J. Hays, Joe Overman, O. A. Brooke, Dr. C. W. Chambers, Tom Kiger, Mike Cisco, Charles Hendricks, Jim Lee, Jake Thompson, George Burnett, Pink Dunn, Jim McNamara, Pete McMullen, John Mastell, James Slankard, M. B. Appleby, Bruce Jordan, Whit Miller, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Joe Coneoda, B. Trout, Joe Assola, and they separately and severally demur to the first count of plaintiffs second amended complaint for the following reasons:

1. The court has no jurisdiction of the person of either of the defendants, or of the subject of the action, it appearing upon the face of the complaint that neither of the plaintiffs were engaged in interstate commerce at the time of the alleged acts causing the damages sued for, within the meaning of the Act of Congress of July 2, 1890, commonly known as the Sherman Anti-Trust Law.

2. The complaint fails to disclose that this court has any jurisdiction of the cause of action therein set forth for the reason that the acts of the defendants complained of were not an interference with interstate commerce, or a violation of the federal statute upon which the complaint is predicated

3. That the complaint shows upon its fact that the plaintiffs named therein have no such community of inter-
235 est in the money sued for as to entitle them to sue jointly. Therefore, there is a misjoinder of parties plaintiffs in this action.

4. That the complaint shows on its face that the plaintiffs named therein have no joint interest in any of the money sued for; that their interests are separate, several and distinct. Therefore there is a misjoinder of causes of action.

5. That the complaint does not charge any contract, combination or conspiracy in restraint of interstate trade or commerce within the meaning of the Sherman Anti-Trust Laws.

6. That the complaint does not allege any acts of defendants monopolizing or attempting to monopolize, or combination or conspiracy to monopolize any part of such trade or commerce, within the meaning of the Sherman Anti-Trust Laws.

7. That the complaint does not state facts sufficient to constitute a cause of action.

Second Count.

The said defendants also demur to the second count in said complaint for the following reasons:

1. The court has no jurisdiction of the person of either of the defendants, or of the subject of the action, it appearing upon the face of the complaint that neither of the plaintiffs were engaged in interstate commerce at the time of the alleged acts causing the damages sued for, within the meaning of the Sherman Anti-Trust Laws.

2. The complaint fails to disclose that this court has any jurisdiction of the cause of action therein set forth for the reason that the acts of the defendants complained of were not an interference with interstate commerce, or a violation of the federal statute upon which the complaint is predicated.

3. That the complaint shows upon its face that the
236 plaintiffs named therein have no such community of interest in the money sued for as entitles them to sue jointly. Therefore there is a misjoinder of parties plaintiffs in this action.

4. That the complaint shows on its face that the plaintiffs named therein have no joint interest in the money sued for; that their interests are separate, several and distinct. Therefore, there is a misjoinder of causes of action.

5. That said complaint does not allege any contract, combination or conspiracy in restraint of interstate commerce or trade within the meaning of the Sherman Anti-Trust Laws.

6. That the complaint does not allege any acts of defendants monopolizing or attempting to monopolize, or combining or conspiring to monopolize any part of such trade or commerce, within the meaning of the Sherman Anti-Trust Laws.

7. That the complaint does not state facts sufficient to constitute a cause of action.

Wherefore, the above named defendants pray that this demurrer be sustained, for costs and all proper relief.

COVINGTON & GRANT
Attorneys for Defendants.

237 (Order August 2, 1915, of submission of Demurrer of United Mine Workers of America, et al., to Second Amended Complaint.)

Before Judge Youmans.

This day come the plaintiffs in the above entitled cause by J. B. McDonough, their attorney; and come the defendants United Mine Workers of America and Local Unions Nos. 340, 560, 586, 1130, 1526, 1530, 1565, 1810, 1814, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2494, 2766, 2769, 2770, 2772, 2841, 2880, by Messrs. Covington & Grant, their attorneys, appearing specially, and file special demurrer to the second amended complaint herein; and come defendants P. R. Stewart, James Mullen, William McLaughlin, Tom King, Jesse Edwards, Charley Farley, Edward Cunningham, Frank J. Hays, Joe Overman, O. A. Brooke, Dr. C. W. Chambers, Tom Kiger, Mike Cisco, Charles Hendricks, Jim Lee, Jake Thompson, George Burnett, Pink Dunn, Jim McNamara, Pete McMullen, John Mastell, James Slankard, M. B. Appleby, Bruce Jordan, Whit Miller, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Joe Coneoda, B. Trout, Joe Assola, by Messrs. Covington & Grant, their attorneys, and file demurrer to the second amended complaint herein. Whereupon, the said demurrers come on to be heard and are argued by counsel and submitted.

---

238 (Order, August 2, 1915, allowing names of Joe Kervillas and other defendants to be attached as a part of second Amended Complaint.)

Before Judge Youmans.

On this the second day of August, 1915, at the hearing of the demurrers of the defendants in this cause it was suggested by counsel for the plaintiffs that by an omission in the preparation of the second amended complaint certain of the defendants were omitted from said second amended complaint. A list of these names was submitted to the court with the showing that such persons had been served with summons herein, the plaintiffs requesting permission to attach to said second amended complaint said names.

It is, therefore, by the court ordered that said names be attached as a part of said second amended complaint. The said names are as follows:

Joe Kervillas, Wm. Rodden, Charles Blackburn, Joe Lanier, Albert Hunter, Rich Hardlin, Scott Adkins, Frank Petty,

Claud Litchford, John Litchford, Otto Alimen, Carey Crumpton, Wm. Price, Peter McMullen, Jr., John Murray, Sam Wooten, Marion Hulsey, Maje Hulsey, Tom Watson, Derwood Warren, Harry Birkett, Willis Congo, Leslie Congo, Bud Congo, Charles McKown, J. W. Howard, Bud Williams, (Col), John T. W. Davis, Brock Smith, (Col), Ed Kehee.

---

239 (Motion to discharge Attachments and Garnishments served upon the American National Bank of Fort Smith, Arkansas, et al.)

Filed in the U. S. District Court, October 18, 1915.

To the Honorable the District Court of the United States of America, Western District of Arkansas, Fort Smith Division:

Come the United Mine Workers of America, Local No. 340, Local No. 560, Local No. 586, Local No. 1526, Local No. 1810, Local No. 1842, Local No. 1912, Local No. 2110, Local No. 2494, Local No. 2766, Local No. 2769, Local No. 2770, Local No. 2772, Local No. 2841, Local No. 2880, Local No. 1530, Local No. 2053, Local No. 1934, Local No. 1814, Local No. 2027, Local No. 2160, Local No. 1130, Local No. 1565, appearing specially for the purpose of filing, presenting and having this motion heard and determined, but for no other purpose whatever, and without waiving any of their rights respectively under the motion to quash the summons and return of the United States Marshal thereon and pretended service of the same, heretofore filed and overruled, and each of the said defendants here severally still insisting upon the aforesaid motion to quash and reserving all of their respective rights under said motion, move the court to discharge the attachments and garnishments issued in this cause and served upon the following named individuals and corporations:

American National Bank, of Fort Smith, Arkansas.

Western Coal & Mining Company.

Central Coal & Coke Company.

Bolen-Darnell Coal Company.

Branner Coal Company.

240 State Bank of Huntington.

Bank of Hartford.

Bank of Midland.

Hackett City Bank.

Sebastian County Bank.

Sebastian County Bank, (as successors of Sebastian County Bank.)

Citizens Bank, of Coal Hill, Arkansas.

Bank of Clarksville, Ark.

First National Bank of Clarksville, Arkansas.

German American Bank of Altus, Arkansas.

First National Bank of Fort Smith, Arkansas.

Fred Gentry.

J. W. McGehee.

J. R. McBride.

C. C. Calvert.

George A. Henry.

C. E. Osborn.

C. R. Owsley.

B. F. Mills.

John Finley.

Thurston Braddock.

J. E. Flanner.

And all other individuals or corporations that may have been served with writs or attachments or garnishments in this case.

The motion to discharge the attachment and garnishments in this action is made upon the following grounds and for the following reasons:

1. Because the United Mine Workers of America, and
241 each local above named, alleged defendants in this action, separately and severally specifically deny that either of them now are, on were at the time of issuing the attachments and garnishments in this action, indebted to the plaintiffs or either of them in any sum whatever, either for destruction of the property referred to in the affidavit for attachment and garnishment, or otherwise.

2. That each, separately and severally, deny that the claim alleged in the affidavit for attachment and garnish-

ment is just, and deny that the plaintiffs or either of them is entitled to recover of or from the above named defendants the sum of $1,283,462.31, or any other sum.

3. They separately and severally deny that they, or either of them, are about to remove or have removed a material part of the property of them or either of them out of the State of Arkansas, not leaving enough therein to satisfy any claim of the plaintiffs or either of them that may be due the plaintiffs, or either of them, if any thing should be found to be due them.

4. Because the affidavit upon which the plaintiffs obtained the issuance of the attachments and garnishments and service upon the individuals and corporations named herein, and all other attachments and garnishments issued and served in this cause, is not in form of law, and does not show upon its face that the plaintiffs or either of them are entitled to an attachment or garnishment as against the money or property of these above named defendants.

5. Because the affidavit filed by the plaintiffs, upon which the attachments and garnishments were issued in this
242 action shows upon its face that there are no grounds for issuing the said attachments and garnishments.

6. Because the court has no jurisdiction of the subject matter of the action, having no power or jurisdiction to try, hear and determine the suit filed by the plaintiffs, out of which suit the attachments and garnishments have been issued.

Wherefore, the defendants named herein pray this Honorable Court to discharge the attachments and garnishments herein referred to, and release all moneys and property which may now be held under them, and for all other and proper relief.

COVINGTON & GRANT,
Attorneys for Defendants.

Affidavit.

State of Arkansas,
Sebastian County—ss.

I, P. R. Stewart, being duly authorized to make this affidavit, on oath do state that neither the United Mine Workers of America, nor any of the Locals named as defendant in plaintiffs complaint, whose names are stated in the foregoing motion, are now or were at the time of the filing of the complaint, indebted to the plaintiffs or either of them in any sum whatever, for destroying the property described in the complaint,

or otherwise, in the amount of $1,283,462.31, or any other sum; neither have the defendants or either of them moved, nor are they or either of them about to remove their property or any portion thereof out of the State of Arkansas, not leaving enough in said State to satisfy the claim of the plaintiffs or either of them, as alleged in the affidavit of the plaintiff
243 F. Bache, upon whose affidavit the attachments and garnishments issued in this case were predicated.

P. R. STEWART,
Board Member.

Subscribed and sworn to before me on this the 18 day of October, 1915.

(Notarial Seal)

W. C. HOLLAND,
Notary Public.

My com. expires Feby 2, 1916.

---

244 Intervention of District No. 21.

Filed in U. S. District Court October 18, 1915.

Comes District No. 21, United Mine Workers of America, and enters its appearance for the purpose of filing, presenting and having determined this intervention, but for no other purpose whatever, and shows to the court as follows:

That said District 21 is a subdivision of the United Mine Workers of America, composed of the States of Arkansas, Oklahoma, and Texas. That it is independent of the United Mine Workers of America, the defendant named in the above styled cause; that it is controlled in its internal affairs entirely by its own officers, the control being independent of the defendant, United Mine Workers of America; that it is in no wise responsible for the debts, misconduct or wrongs committed by said defendant, and that the said defendant has no interest whatever in the funds of this intervenor, and that such funds are in no wise subject to the payment of the debts contracted by the defendant, United Mine Workers of America, or subject to the payment of any judgment that may be rendered against it.

This intervenor further states that in the early part of the month of September, 1914, the plaintiffs filed their complaint in this cause against the defendant, United Mine Workers of America, and various other defendants, and caused to be attached and garnisheed funds belonging to the said petitioner,

then and now in the hands of the American National
245 Bank in the City of Fort Smith, Arkansas, in the sum of $8,557.35, which have been held by said Bank ever since, in obedience to the writ of attachment and garnishment aforesaid. That this intervenor was never at any time made a party defendant, either in the original complaint or in subsequent amendments thereto or amended complaints filed since then, and it is not now a party defendant in any action pending in this court, but says that notwithstanding such facts its funds are attached, garnisheed and held in the bank aforesaid, all of which is without right or warrant of law. That the complaint fails to show a cause of action against the District No. 21, or that its funds may be tied up and held under garnishments or attachments for the payment of the debts of any of the defendants named in said complaint; but, on the contrary, shows upon its face that there is no liability against this intervenor, and that there are no grounds for attachments of garnishments under the laws of the State of Arkansas against it.

Your petitioner says that it is entitled to the immediate release of its funds aforesaid; that it is the sole owner thereof, and that the United Mine Workers of America has no interest whatever therein.

Wherefore, premises considered, petitioner prays an order of this court dissolving and setting aside the attachment and garnishment process heretofore issued in so far as it affects the property and rights of this petitioner, and that an order be made authorizing and directing the said American National Bank to turn over to it, or its authorized representative, all funds in its hands held by it by reason of the attach-
246 ments and garnishments aforesaid, and for all other and proper relief hereunder.

DISTRICT NO. 21, UNITED MINE WORKERS OF AMERICA,
By Herbert B. Long,
Secretary-Treasurer.

COVINGTON & GRANT,
Attorneys for Petitioner.

P. R. STEWART, Board Member.

Subscribed and sworn to before me on this the 18th day of October, 1915.

(Notarial Seal)

W. C. HOLLAND,
Notary Public.

My com. expires Feby. 2, 1916.

247 (Record Entry, October 18, 1915, of the filing of Motion to discharge Attachments etc., and Intervention of District No. 21.)

Before Judge Youmans.

This day comes the defendants United Mine Workers of America, Local No. 340, Local No. 560, Local No. 586, Local No. 1526, Local No. 1810, Local No. 1842, Local No. 1912, Local No. 2110, Local No. 2494, Local No. 2766, Local No. 2769, Local No. 2770, Local No. 2772, Local No. 2841, Local No. 2880, Local No. 1530, Local No. 2053, Local No. 1934, Local No. 1814, Local No. 2027, Local No. 2160, Local No. 1130 and Local No. 1565, by Messrs. Covington & Grant, their attorneys, and file motion to discharge attachments and garnishments in the above entitled cause.

And comes District No. 21, United Mine Workers of America, by Messrs. Covington & Grant, its attorneys, and by leave of court files its intervening petition herein.

---

248 (Order, October 20, 1915, sustaining Demurrers to Second Amended Complaint and dismissing cause, and exceptions thereto.)

Before Judge Youmans.

On this day this cause came on to be heard upon the two demurrers of the defendants heretofore filed herein to the second amended complaint in this cause, and the court having heard argument of counsel, and having taken the matter of said demurrers under advisement, and now being well and sufficiently advised in the premises, is of opinion that said demurrers should be and the same are hereby sustained upon the following grounds only, the same being the second ground of demurrer set out in each of said two demurrers, and in each of the demurrers to each of the two grounds in the complaint to-wit: "That the complaint fails to disclose that this court has any jurisdiction of the cause of action therein set forth for the reason that the acts of the defendants complained of were not an interference with interstate commerce, or a violation of the Federal Statute upon which the complaint is predicated"; and the court is of opinion that each of the other grounds of demurrer should be and the same are hereby overruled.

And the plaintiffs electing to stand upon their complaint the said complaint is hereby dismissed. To which action of the court in sustaining the demurrers as herein set out the plain-

tiffs at the time excepted, and asked that their exceptions be noted of record which is accordingly done.

And each defendant at the time separately and severally excepted to each ruling of the court in its refusal to
249 sustain said demurrers to each of the other grounds contained in said demurrers, and asked that each of their several exceptions be noted of record which was accordingly done.

---

250 (Order, October 25, 1915, discharging Attachments and Garnishments against the American National Bank of Fort Smith, Arkansas, et al., etc.)

Before Judge Youmans.

Now on this day was presented to the court the motion of United Mine Workers of America, Local No. 340, Local No. 560, Local No. 586, Local No. 1526, Local No. 1810, Local No. 1842, Local No. 1912, Local No. 2110, Local No. 2494, Local No. 2766, Local No. 2769, Local No. 2770, Local No. 2772, Local No. 2841, Local No. 2880, Local No. 1530, Local No. 2053, Local No. 1934, Local No. 1814, Local No. 2027, Local No. 2160, Local No. 1130, and Local No. 1565, to discharge the attachments and garnishments issued in this case and served upon the following individuals and corporations, to-wit:

American National Bank, of Fort Smith, Arkansas.

Western Coal & Mining Company.

Central Coal & Coke Company.

Bolen-Darnell Coal Company.

Branner Coal Company.

State Bank of Huntington.

Bank of Hartford.

Bank of Midland.

Hackett City Bank.

Sebastian County Bank.

Sebastian State Bank (as successor to the Sebastian County Bank.)

Citizens Bank of Coal Hill.

Bank of Clarksville, Arkansas.

251 First National Bank of Clarksville, Arkansas.

German American Bank of Altus, Arkansas.

First National Bank of Fort Smith, Arkansas.

Fred Gentry.

J. W. McGehee.

J. R. McBride.

C. C. Calvert.

George A. Henry.

C. E. Osborn.

C. R. Owsley.

B. F. Mills.

John Finley.

Thruston Braddock.

J. E. Flanner.

and also upon all other persons or corporations that may have been served with attachments or garnishments in this case, and the motion having been presented to the court by counsel for both plaintiffs and defendants, and the court being well and sufficiently advised in the premises is of opinion that the motion should be sustained.

It is therefore by the court considered, ordered and adjudged that the motion be and the same is hereby sustained, and all attachments and garnishments issued out of this court in connection with this case, be and they are hereby dismissed and discharged.

Plaintiffs at the time requested the court to allow a reasonable time in which to present to the appellate court the question of tendering a supersedeas bond so as to hold the
252 attachments and garnishments herein in their present status. This request the court denied, and the plaintiffs at the time excepted to the rulings of the court in discharging the attachments and ganishments, and also in the refusal of the court to allow time above named, and asked that their exceptions be noted of record, which is accordingly done.

253 Summons issued September 23, 1916, and Marshal's Return.

Filed in U. S. District Court September 26, 1916.

United States of America,
Western District of Arkansas,
Fort Smith Division.

The President of the United States of America, to the Marshal of the Western District of Arkansas:

You are commanded to summon John P. White, as President of United Mine Workers of America, to answer within twenty days after service of summons, a complaint filed against him in the District Court of the United States for the Western District of Arkansas, Fort Smith Division, by Coronado Coal Company, et al, by A. S. Dowd, Receiver, and A. S. Dowd, Receiver, and warn him that upon his failure to answer, the complaint will be taken for confessed; and you will make due return of this summons on the first day that said court shall be in session after the date of issuance hereof.

In Witness Whereof, the Honorable Frank A. Youmans, Judge of the District Court of the United States for the Western District of Arkansas, has caused the seal of said court to be hereto affixed this 23rd day of September, A. D. 1916.

(Seal of Court) WM. S. WELLSHEAR, Clerk.

United States of America,
Western District of Arkansas,
Fort Smith Division.

254 This writ came to hand on the 23rd day of September 1916, and I do hereby certify that I did upon said date duly serve same within the Fort Smith Division of said (.....) at Fort Smith by delivering a true copy to the within named John P. White, as President of the United (.....) Workers of America, as within I am commanded.

J. H. PARKER, U. S. Marshal,
By Phillip Ross, Deputy.

---

255 (Motion to Vacate Decree of District Court, sustaining Demurrers to Complaint and requiring Defendants to plead within 10 days etc.)

Filed in the U. S. District Court, February 6, 1917.

Come the plaintiffs and respesctfully show to the court that the mandate of the Circuit Court of Appeals of this Circuit,

reversing the decree of this court, dismissing the complaint herein has been filed on this date.

The plaintiffs, therefore, move the court to enter up an order, setting aside the former decree of this court, sustaining the demurrer of the defendants to the complaint of the plaintiffs, and that defendants be required to plead herein within ten days from this date, and that if said defendants fail or refuse to plead within that time that a judgment be entered against said defendants by default herein.

JAMES B. McDONOUGH,
Counsel for Plaintiffs.

---

256 (Mandate of U. S. Circuit Court of Appeals, and Order, February 7, 1917, entered thereon, vacating Decree of Dismissal of the District Court, and overruling Demurrers.)

Before Judge Youmans.

This day come the plaintiffs by James B. McDonough, their attorney, and come the defendants by G. L. Grant, their attorney, and on motion of the plaintiffs it is ordered that the mandate of the United States Circuit Court of Appeals for the Eighth Circuit reversing the judgment in this cause be spread at length of record, the said mandate being in the following words, to-wit:

United States of America—ss.

The President of the United States of America, To the Honorable the Judges of the District Court of the United States for the Western District of Arkansas—Greeting:

(United States Circuit
Court of Appeals
Eighth Circuit.)

Whereas, lately in the District Court of the United States for the Western District of Arkansas, before you, or some of you in a cause between Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by A. S. Dowd, Receiver, and A. S. Dowd, Receiver, plaintiffs, and United Mine Workers of America, P. R. Stewart, Fred Holt, John P. White, as President of United Mine Workers of America, P. R. Stewart, as President of

United Mine Workers of America of District No. 21,
257 James Mullen, National Executive Board member, United Mine Workers of America, William McLaughlin, William McLaughlin, as President of United Mine Workers of America, District No. 21, Tom King as Board member of United Mine Workers of America, Jess Edwards, Charley Farley, Edward Cunningham, and Edward Cunningham, as President of District No. 21 United Mine Workers of America, Frank J. Hayes, and Frank J. Hayes as Vice President of the United Mine Workers of America, William Green and William Green as Secretary-Treasurer of the United Mine Workers of America, Joe Overman, O. A. Brooks, Dr. W. C. Chambers, Tom King, Mike Cisco, Charles Hendricks, Jim Lee, Jake Thompson, George Burnett, Pink Dunn, Jim McNamara, Pete McCullen, John Mastell, James Slankard, and the following Local Unions of the United Mine Workers of America, viz: Local Union No. 340, Local Union No. 374, Local Union No. 560, Local Union No. 586, Local Union No. 1130, Local Union No. 1159, Local Union No. 1526, Local Union No. 1530, Local Union No. 1565, Local Union No. 1810, Local Union No. 1814, Local Union No. 1824, Local Union No. 1842, Local Union No. 1912, Local Union No. 1934, Local Union No. 2027, Local Union No. 2053, Local Union No. 2110, Local Union No. 2160, Local Union No. 2316, Local Union No. 2494, Local Union No. 2766, Local Union No. 2769, Local Union No. 2770, Local Union No. 2772, Local Union No. 2841, Local Union No. 2880, M. B. Appleby, Bruce Jordan, Whit Miller, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Joe Coneoda, B. Trout, Joe Assola and many other defendants too numerous to name, defendants, wherein the judgment of the said District Court in said cause, entered on the 20th day of October, A. D. 1915, is in the following words, viz:

"On this day this cause came on to be heard upon the two demurrers of the defendants heretofore filed herein to
258 the second amended complaint in this cause, and the court having heard argument of counsel, and having taken the matter of said demurrers under advisement, and now being well and sufficiently advised in the premises, is of opinion that said demurrers should be and the same are hereby sustained upon the following grounds only, the same being the second ground of demurrer set out in each of said two demurrers, and in each of the demurrers to each of the two grounds in the complaint, to-wit: "That the complaint fails to disclose that this court has any jurisdiction of the cause of action therein set forth for the reason that the acts of the defendants complained of were not an interference with interstate

commerce, or a violation of the Federal Statute upon which the complaint is predicated"; and the court is of opinion that each of the other grounds of demurrer should be and the same are hereby overruled.

And the plaintiffs electing to stand upon their complaint the said complaint is hereby dismissed. To which action of the court in sustaining the demurrers as herein set out the plaintiffs at the time excepted, and asked that their exceptions be noted of record which is accordingly done.

And each defendant at the time separately and severally excepted to each ruling of the court in its refusal to sustain said demurrers to each of the other grounds contained in said demurrers, and asked that each of their several exceptions be noted of record which was accordingly done."

as by the inspection of the transcript of the record of the said District Court, which was brought into the United States Circuit Court of Appeals, Eighth Circuit, by virtue of a writ of error, agreeably to the Act of Congress, in such case
259 made and provided, fully and at large appears;

And whereas, at the September term, in the year of our Lord one thousand nine hundred and sixteen, the said cause came on to be heard before the said United States Circuit Court of Appeals, on the transcript of the record from said District Court, and upon the motion of defendants in error to dismiss, and was argued by counsel.

On consideration whereof, it is now here ordered and adjudged by this court that the judgment of the said District Court, in this cause, be, and the same is hereby, reversed with costs; and that A. S. Dowd, Receiver of Coronado Coal Co., Denman Coal Company, Mammoth Vein Coal Company, Bache Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by A. S. Dowd, Receiver, have and recover against the United Mine Workers of America, P. R. Stewart, Fred Holt, John P. White, as President of United Mine Workers of America of District No. 21, James Mullen, National Executive Board Member, United Mine Workers of America, William McLaughlin, William McLaughlin, as President of United Mine Workers of America, District No. 21, Tom King, Tom King, as Board Member of United Mine Workers of America, Jess Edwards, Charley Farley, Edward Cunningham and Edward Cunningham, as President of District No. 21, United Mine Workers of America,

Frank J. Hayes, and Frank J. Hayes, as Vice President of the United Mine Workers of America, William Green, and William Green, as Secretary-Treasurer of the United Mine Workers of America, Joe Overman, O. A. Brooks, Dr. W. C. Chambers,Tom King, Mike Cisco, Charles Hendricks,
Jim Lee, Jake Thompson, George Burnett, Pink Dunn,
260 Jim McNamara, Pete McMullen, John Mastell, James
Slankard, and the following Local Unions of the United Mine Workers of America, viz: Local Union No. 340, Local Union No. 374, Local Union No. 560, Local Union No. 586, Local Union No. 1130, Local Union No. 1159, Local Union No. 1526, Local Union No. 1530, Local Union No. 1565, Local Union No. 1810, Local Union No. 1814, Local Union No. 1824, Local Union No. 1842, Local Union No. 1912, Local Union No. 1934, Local Union No. 2027, Local Union No. 2053, Local Union No. 2110, Local Union No. 2160, Local Union No. 2316, Local Union No. 2494, Local Union No. 2766, Local Union No. 2769, Local Union No. 2770, Local Union No. 2772, Local Union No. 2841, Local Union No. 2880, M. B. Appleby, Bruce Jordan, Whit Miller, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Joe Coneoda, B. Trout, Joe Assola and many other defendants too numerous to name, the sum of One Hundred Sixty-nine and 25/100 Dollars for their costs in this behalf expended and have execution therefor.

It is further ordered that this cause be, and the same is hereby, remanded to the said District Court with directions to overrule the demurrer to the complaint and to permit the defendants to answer, if they are so advised.

It is further ordered that the motion of defendants in error to dismiss the writ of eror herein be, and the same is hereby, denied. September 4, 1916.

You, therefore, are hereby commanded that such execution and further proceedings be had in said cause, in conformity with the opinion and judgment of this court, as according to right and justice, and the laws of the United States, ought to be had, the said writ of error notwithstanding.

Witness, the Honorable Edward D. White, Chief Jus-
261 tice of the United States, the fifth day of February, in the year of our Lord one thousand nine hundred and seventeen.

JOHN D. JORDAN,
Clerk of the United States Circuit Court of Appeals, Eighth Circuit.

Costs of Plaintiffs in Error.

Clerk	$ 32.80
Printing Record	$116.45
Attorney	$ 20.00
	$169.25

United States Circuit Court of Appeals, Eighth Circuit.

Costs taxed in favor of Plaintiffs in Error, in the case of A. S. Dowd, Receiver, etc., et al., Plaintiffs in Error, vs. United Mine Workers of America, et al., No. 4623.

Filing record and docketing cause	$ 5.00
Filing .... copies of printing record	
Filing and entering 2 appearances for Plffs. in Error	1.00
Filing and entering 2 appearances for Defts. in Error	1.00
Clerk, preparing record for printer, etc.	22.50
Printer, for printing record	93.00
Filing 11 papers	.75
Entering 3 orders, 3 folios	.09
Entering continuance	
Filing briefs for Plaintiffs in Error	5.00
Filing briefs for Defendants in Error	5.00
Filing opinion	.25
Filing and entering judgment or decree	1.25
Filing petition for a rehearing	5.00
Filing and entering order in petition for a rehearing	.45
Issuing mandate to District Court	5.00
Filing receipt for mandate	.25
Filing receipt for balance of deposit	.25
Attorney's docket fee	20.00
	$169.25

Attest:

John D. Jordan,
Clerk U. S. Circuit Court
of Appeals, Eighth Circuit.

United States Circuit Court of Appeals. No. 4623. September Term, 1916. A. S. Dowd, Receiver, etc., et al., Plaintiffs in Error, vs. United Mine Workers of America, et al. Mandate. No. 553 Law. Filed Feb. 6 1917. Wm. S. Wellshear, Clerk.

Whereupon, in obedience to said mandate it is by the court here considered, ordered and adjudged that the judg-
262 ment of this court entered in this cause on the 20th day of October, 1915, sustaining defendants' demurrer and dismissing plaintiffs' complaint be, and is hereby vacated, set aside, and held for naught.

It is by the court here further considered, ordered and adjudged that the said demurrer of defendants to the complaint herein be, and is hereby overruled. To the action of the court in overruling said demurrer defendants and each of them duly excepted at the time.

Whereupon, on motion of the plaintiffs by their said attorney, it is ordered that defendants be, and are hereby, allowed ten days from this date in which to answer or otherwise plead herein.

---

263 (Motion of United Mine Workers of America, et al., to Strike out certain parts of Plaintiffs' Second Amended Complaint.)

Filed in the U. S. District Court, February 10, 1917.

Come now the United Mine Workers of America, Local Unions Numbers 340, 560, 1130, 1526, 1530, 1565, 1810, 1814, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2494, 2766, 2769, 2770, 2772, 2841, 2880, joining together in this motion for convenience only, and each separately says, that without waiving any rights under its motion to quash the summons and pretended service thereon heretofore filed and overruled, and without waiving any right under its demurrer heretofore filed and overruled, but reserving all rights under said motion and demurrer and still insisting upon the same and protesting against being required to proceed further in this case, moves the court to strike from plaintiffs' second amended complaint the following matters and allegations and things:

1.

It moves to strike from said complaint the alleged cause of action of the Coronado Coal Company for the reason that the Coronado Coal Company is a corporation which claims to have been engaged in business as such a corporation and its business is separate and distinct from the business of the other named plaintiffs; that it is not shown to have a community of interest with the other plaintiffs in the relief sought, and because it is shown by the complaint that there is a misjoinder of parties plaintiffs and of causes of action as is shown by plaintiffs' second amended complaint.

264 2.

It moves to strike from said complaint the alleged cause of action of the Denman Coal Company for the reason that the Denman Coal Company is a corporation which

claims to have beein engaged in business as such a corporation and its business is separate and distinct from the business of the other named plaintiffs; that it is not shown to have a community of interest with the other plaintiffs in the relief sought, and because it is shown by the complaint that there is a misjoinder of parties plaintiffs and of causes of action as is shown by plaintiffs' second amended complaint.

3.

It moves to strike from said complaint the alleged cause of action of the Mammoth Vein Coal Company for the reason that the Mammoth Vein Coal Company is a corporation which claims to have been engaged in business as such a corporation and its business is separate and distinct from the business of the other named plaintiffs; that it is not shown to have a community of interest with the other plaintiffs in the relief sought, and because it is shown by the complaint that there is a misjoinder of parties plaintiffs and of causes of action as shown by plaintiffs' second amended complaint.

4.

It moves to strike from said complaint the alleged cause of action of the Bache-Denman Coal Company for the reason that the Bache-Denman Coal Company is a corporation which claims to have been engaged in business as such a corporation and its business is separate and distinct from the business of the other named plaintiffs; that it is not shown to have a community of interest with the other plaintiffs in the relief sought, and because it is shown by the complaint that there is a misjoinder of parties plaintiffs
265 and of causes of action, as is shown by plaintiffs' second amended complaint.

5.

It moves to strike from said complaint the alleged cause of action of the Hartford Coal Company, for the reason that the Hartford Coal Company is a corporation which claims to have been engaged in business as such a corporation and its business is separate and distinct from the business of the other named plaintiffs; that it is not shown to have a community of interest with the other plaintiffs in the relief sought, and because it is shown by the complaint that there is a misjoinder of parties plaintiffs and of causes of action, as is shown by plaintiffs' second amended complaint.

6.

It moves to strike from said complaint the alleged cause of action of the Sebastian County Coal Company, for the reason that the Sebastian County Coal Company is a corporation which claims to have been engaged in business as such a corporation and its business is separate and distinct from the business of the other named plaintiffs; that it is not shown to have a community of interest with the other plaintiffs in the relief sought, and because it is shown by the complaint that there is a misjoinder of parties plaintiffs and of causes of action, as is shown by plaintiffs' second amended complaint.

7.

It moves to strike from said complaint the alleged cause of action of the Mammoth Vein Coal Mining Company, for the reason that the Mammoth Vein Coal Mining Company is a corporation which claims to have been engaged in business as such a corporation and its business is separate
266 and distinct from the business of the other named plaintiffs; that it is not shown to have a community of interest with the other plaintiffs in the relief sought, and because it is shown by the complaint that there is a misjoinder of parties plaintiffs and of causes of action, as is shown by plaintiffs' second amended complaint.

8.

It moves to strike from said complaint the alleged cause of action of the Mammoth Vein Royalty Company, for the reason that the Mammoth Vein Royalty Company is a corporation which claims to have been engaged in business as such a corporation and its business is separate and distinct from the business of the other named plaintiffs; that it is not shown to have a community of interest with the other plainiffs in the relief sought, and because it is shown by the complaint that there is a misjoinder of parties plaintiffs and of causes of action, as is shown by plaintiffs' second amended complaint.

9.

It moves to strike from said complaint the alleged cause of action of the Prairie Creek Coal Mining Company, for the reason that the Prairie Creek Coal Mining Company is a corporation which claims to have been engaged in business as such a corporation and its business is separate and distinct from the business of the other named plaintiffs; that it is not shown to have a community of interest with the oth-

er plaintiffs in the relief sought, and because it is shown by the complaint that there is a misjoinder of parties plaintiffs and of causes of action, as is shown by plaintiffs' second amended complaint.

10.

It moves to strike from the complaint the alleged causes of action stated by the receivers, and says: that Henry
267 P. Hilliard and C. H. Finley, as receivers of said plaintiffs, are merely representatives and receivers of the plaintiffs separately and severally, and the plaintiffs have no unity of interest in the relief sought, and the said receivers have attempted to mingle the estates of the separate corporations so as to recover from them in one action the separate damages claimed by each corporation; that therefore there is a misjoinder of plaintiffs and of causes of action.

11.

It further moves to strike from said second amended complaint all of Section No. 11, paragraph No. 1, and each and every sentence contained in said section, for the reason that said section, and eac hand every sentence thereof, is irrelevant and redundant.

12.

It further moves to strike from said second amended complaint all of Section No. 12, paragraph No. 1, and each and every sentence contained in said section, for the reason that said section, and each and every sentence thereof, is irrelevant and redundant.

13.

It further moves to strike from said second amended complaint all of Section No. 13, paragraph No. 1, and each and every sentence contained in said section, for the reason that said section, and each and every sentence thereof, is irrelevant and redundant.

14.

It further moves to strike from said second amended complaint all of Section No. 14, paragraph No. 1, and each and every sentence contained in said section, for the reason that said section and each and every sentence thereof, is irrelevant and redundant.
268

15.

It further moves to strike from said second amended complaint all of Section No. 15, paragraph No. 1, and each and every sentence contained in said section, for the reason

that said section and each and every sentence thereof, is irrelevant and redundant.

16.

It further moves to strike from said second amended complaint of all of Section No. 16, paragraph No. 1, and each and every sentence contained in said section, for the reason that said section and each and every sentence thereof, is irrelevant and redundant.

17.

It further moves to strike from said second amended complaint all of Section No. 16, paragraph No. 1, and each and every sentence contained in said section, for the reason that said section and each and every sentence thereof, is irrelevant and redundant.

18.

It further moves to strikes from said second amended complaint all of Section No. 17, paragraph No. 1, and each and every sentence contained in said section, for the reason that said section and each and every sentence thereof, is irrelevant and redundant.

19.

It further moves to strike from said second amended complaint all of Section No. 18, paragraph No. 1, and each and every sentence contained in said section, for the reason that said section and each and every sentence thereof, is irrelevant and redundant.

269

20.

It further moves to strike from said second amended complaint all of Section No. 19, paragraph No. 1, and each and every sentence contained in said section, for the reason that said section and each and every sentence thereof, is irrelevant and redundant.

21.

It further moves to strike from said second amended complaint all of Section No. 20, paragraph No. 1, and each and every sentence contained in said section, for the reason that said section, and each and every sentence thereof, is irrelevant and redundant.

22.

It further moves to strike from said second amended complaint all of Section No. 21, paragraph No. 1, and each and every sentence contained in said section, for the reason that

said section, and each and every sentence thereof, is irrelevant and redundant.

23.

It further moves to strike from said second amended complaint all of Section 22, paragraph No. 1, and each and every sentence contained in said section, for the reason that said section, and each and every sentence thereof, is irrelevant and redundant.

Wherefore, it prays that this motion be sustained and for all proper relief hereunder.

HENRY WARRUM
COVINGTON & GRANT
Attorneys for Defendants.

---

270 (Record Entry, February 10, 1917, of the filing of Motion of the United Mine Workers of America, et al., to Strike out etc.)

Before Judge Youmans.

This day come the United Mine Workers of America and other defendants by Messrs. Covington & Grant, their attorneys, and file motion to strike from plaintiffs' second amended complaint in the above entitled cause.

---

271 (Motion of P. R. Stewart, et al., to Strike out certain parts of Second Amended Complaint.

Filed in the U. S. District Court, February 12, 1917.

Come the defendants P. R. Stewart, Wm. McLachlin, Jess Edwards, Charley Farley, Joe Overman, O. A. Brooks, Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charlie Hendrix, Jim Lee, George Burnett, Pink Dunn, Pete McMullen, John Mastell, James Slankard, M. B. Appleby, Bruce Jordan, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Wm. Rodden, Joe Kerbellas, Jo Lanier, Charles Blackburn, Ed Kehee, Albert Hunter, Rich Handlin, Scott Adkins, Frank Petty, Claude Lichford, John Lichford, Otto Altman, Carey Crumpton, Wm. Price, Pete McMullen, Jr., John Murray, Sam Wooten, Marion Hulsey, Maje Hulsey, Tom Watson, Derwood Warren, Harry Birkett, Bud Williams, Brock Smith, Willis Congo, Leslie Congo, Bud Congo, Charles McCowen, J. W. Howard, John T. W. Davis, Edward Cunningham, Tom King, John P. White, Jake Thompson, Jim McNamara, Whit Miller, Joe Coneoda, B.

Trout, and Joe Assola, who severally and separately move the court to strike from the complaint the following names, matters and things:

1.

He moves to strike from said complaint the name of and the alleged cause of action of the Coronado Coal Company for the reason that the Coronado Coal Company is a corporation which claims to have been engaged in business as such a corporation and its business is separate and distinct from the business of the other named plaintiffs; that
272 it is not shown to have a community of interest with the other plaintiffs in the relief sought, and because it is shown by the complaint that there is a misjoinder of parties plaintiffs and of causes of action as is shown by plaintiffs' second amended complaint.

2.

He moves to strike from said complaint the name of and the alleged cause of action of the Denman Coal Company for the reason that the Denman Coal Company is a corporation which claims to have been engaged in business as such a corporation and its business is separate and distinct from the business of the other named plaintiffs; that it is not shown to have a community of interest with the other plaintiffs in the relief sought and because it is shown by the complaint that there is a misjoinder of parties plaintiffs and of causes of action as is shown by plaintiffs' second amended complaint.

3.

He moves to strike from said complaint the name of and the alleged cause of action of the Mammoth Vein Coal Company for the reason that the Mammoth Vein Coal Company is a corporation which claims to have been engaged in business as such a corporation and its business is separate and distinct from the business of the other named plaintiffs; that it is not shown to have a community of interest with the other plaintiffs in the relief sought, and because it is shown by the complaint that there is a misjoinder of parties plaintiffs and of causes of action as shown by plaintiffs' second amended complaint.

4.

He moves to strike from said complaint the name of and the alleged cause of action of the Bache-Denman Coal Company for the reason that the Bache-Denman Coal
273 Company is a corporation which claims to have been engaged in business as such a corporation and its

business is separate and distinct from the business of the other named plaintiffs; that it is not shown to have a community of interest with the other plaintiffs in the relief sought, and because it is shown by the complaint that there is a misjoinder of parties plaintiffs and of causes of action as is shown by plaintiffs' second amended complaint.

5.

He moves to strike from said complaint the name of and the alleged cause of action of the Hartford Coal Company, for the reason that the Hartford Coal Company is a corporation which claims to have been engaged in business as such a corporation and its business is separate and distinct from the business of the other named plaintiffs; that it is not shown to have a community of interest with the other plaintiffs in the relief sought, and because it is shown by the complaint that there is a misjoinder of parites plaintiffs and of causes of action, as is shown by plaintiffs' second amended complaint.

6.

He comes to strike from said complaint the name of and the alleged cause of action of the Sebastian County Coal Company, for the reason that the Sebastian County Coal Company is a corporation which claims to have been engaged in business as such a corporation and its business is separate and distinct from the business of the other named plaintiffs; that it is not shown to have a community of interest with the other plaintiffs in the relief sought, and because it is shown by the complaint that there is a misjoinder of par-
274 ties plaintiffs and of causes of action, as is shown by plaintiffs' second amended complaint.

7.

He moves to strike from said complaint the name of and the alleged cause of action of the Mammoth Vein Coal Mining Company, for the reason that the Mammoth Vein Coal Mining Company is a corporation which claims to have been engaged in business as such a corporation and its business is separate and distinct from the business of other named plaintiffs; that it is not shown to have a community of interest with the other plaintiffs in the relief sought, and because it is shown by the complaint that there is a misjoinder of parties plaintiffs and of causes of action, as shown by plaintiffs' second amended complaint.

8.

He moves to strike from said complaint the name of and the alleged cause of action of the Mammoth Vein Royalty Company, for the reason that the Mammoth Vein Royalty Company is a corporation which claims to have been engaged in business as such a corporation and its business is separate and distinct from the business of the other named plaintiffs; that it is not shown to have a community of interest with the other plaintiffs in the relief sought, and because it is shown by the complaint that there is a misjoinder of parties plaintiffs and of causes of action, as is shown by plaintiffs' second amended complaint.

9.

He moves to strike from said complaint the name of and the alleged cause of action of the Prairie Creek Coal Mining Company, for the reason that the Prairie Creek
275 Coal Mining Company is a corporation which claims to have been engaged in business as such a corporation and its business is separate and distinct from the business of the other named plaintiffs; that it is not shown to have a community of interest with the other plaintiffs in the relief sought, and because it is shown by the complaint that there is a misjoinder of parties plaintiffs and of causes of action, as is shown by plaintiffs' second amended complaint.

10.

He moves to strike from the complaint the names of and the alleged causes of action stated by the receivers, and says; that Henry P. Hilliard and C. H. Finley, as receivers of said plaintiffs are merely representatives and receivers of the plaintiffs separately and severally, and the plaintiffs have no unity of interest in the relief sought, and the said receivers have attempted to mingle the estates of the separate corporations so as to recover from them in one action the separate damages claimed by each corporation; that therefore there is a misjoinder of plaintiffs and of causes of action.

11.

He further moves to strike from said second amended complaint all of Section No. 11, paragraph No. 1, and each and every sentence contained in said section, for the reason that said section, and each and every sentence thereof, is irrelevant and redundant.

12.

He further moves to strike from said second amended complaint all of Section No. 12, paragraph No. 1, and each and every sentence contained in said section, for the reason that said section, and each and every sentence thereof, is irrelevant and redundant.

276

13.

He further moves to strike from said second amended complaint all of Section No. 13, paragraph No. 1, and each and every sentence contained in said section, for the reason that said section, and each and every sentence thereof, is irrelevant and rendundant.

14.

He further moves to strike from said second amended complaint all of Section No. 14, paragraph No. 1, and each and every sentence contained in said section, for the reason that said section and each and every sentence thereof, is irrelevant and dedundant.

15.

He further moves to strike from said second amended complaint all of Section No. 15, paragraph No. 1, and each and every sentence contained in said section, for the reason that said section and each and every sentence thereof is irrelevant and redundant.

16.

He further moves to strike from said second amended complaint all of Section No. 16, paragraph No. 1, and each and every sentence contained in said section, for the reason that said section and each and every sentence thereof, is irrelevant and redundant.

17.

He further moves to strike from said section amended complaint all of Section No. 17, paragraph No. 1, and each and every sentence contained in said section, for the reason that said section and each and every sentence thereof is irrelevant and redundant.

277

18.

He further moves to strike from said second amended complaint all of Section 18, paragraph No. 1, and each and every sentence contained in said section, for the reason that

said section and each and every sentence thereof is irrelevant and redundant.

19.

He further moves to strike from said second amended complaint all of Section No. 19, paragraph No. 1, and each and every sentence contained in said section, for the reason that said section and each and every sentence thereof is irrelevant and redundant.

20.

He further moves to strike from said second amended complaint all of Section No. 20, paragraph No. 1, and each and every sentence contained in said section, for the reason that said section and each and every sentence thereof is irrelevant and redundant.

21.

He further moves to strike from said second amended complaint all of Section No. 21, paragraph No. 1, and each and every sentence contained in said section, for the reason that said section, and each and every sentence thereof is irrelevant and redundant.

22.

He further moves to strike from said second amended complaint all of Section 22, paragraph No. 1, and each and every sentence contained in said section, for the reason that
278 said section and each and every sentence thereof is irrelevant and redundant.

Wherefore, it prays that this motion be sustained, and for all proper relief hereunder.

HENRY WARRUM
COVINGTON & GRANT
Attorneys for Defendants.

---

279 (Record Entry, February 12, 1917, of the filing of Motion of P. R. Stewart et al., to strike out etc.)

Before Judge Youmans.

This day come P. R. Stewart and other individual defendants by Messrs. Covington & Grant, their attorneys, and file motion to strike out parts of the complaint in the above entitled cause.

Third Amended Complaint.

280 Filed in U. S. District Court February 27, 1917.

In The District Court Of The United States For The Western District Of Arkansas, Fort Smith Division.

Coronda Coal Company, Demnan Coal Company, Mammoth Vein Coal Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by C. H. Finley and H. P. Hilliard Receivers, and C. H. Finley and H. P. Hilliard, Receivers, Plaintiffs,

vs.

United Mine Workers of America, P. R. Stewart, Fred Holt, John P. White, as President of the United Mine Workers of America, P. R. Stewart, as President of United Mine Workers of America of District No 21, James Mullen, National Executive Board Member United Mine Workers of America, William McLaughlin, William McLaughlin, as President of United Mine Workers of America District No 21, Tom King, Tom King, as Board Member of United Mine Workers of America, Jess Edwards, Charley Farley, Edward Cunningham, and Edward Cunningham, as President of District No. 21 United Mine Workers of America, Frank J. Hayes and Frank J. Hayes as Vice-President of the United Mine Workers of America, William Green and William Green as Secretary-Treasurer of the the United Mine Workers of America, Joe Overman, O. A. Brooke, Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charles Hendricks, Jim Lee, Jake Thompson, George Burnett, Pink Dunn, Jim McNamara, Pete McMullen, John Mastell, James Slankard,

Local Union No. 340, United Mine Workers of America, Local Union No. 374, United Mine Workers of America, Local Union No. 560, United Mine Workers of America, Local Union No. 586, United Mine Workers of America, Local Union No. 1130, United Mine Workers of America, Local Union No. 1159, United Mine Workers of America, Local Union No. 1526, United Mine Workers of America, Local Union No. 1530, United Mine Workers of America, Local Union No 1565, United Mine Workers of America, Local Union No. 1810, United Mine Workers of America, Local Union No. 1814, United Mine Workers of America, Local

Union No. 1824, United Mine Workers of America, Local Union No. 1842, United Mine Workers of America, Local Union No. 1912, United Mine Workers of America, Local Union No. 1934, United Mine Workers of America, Local Union No. 2027, United Mine Workers of America, Local Union No. 2053, United Mine Workers of America, Local Union No. 2110, United Mine Workers of America, Local Union No. 2160, United Mine Workers of America, Local Union No. 2316, United Mine Workers of America, Local Union No. 2494, United Mine Workers of America, Local Union No. 2766, United Mine Workers of America, Local Union No. 2769, United Mine Workers of America Local Union No. 2770, United
281 Mine Workers of America, Local Union No. 2772, United Mine Workers of America, Local Union No. 2841 United Mine Workers of America, Local Union No 2880, United Mine Workers of America, M. B. Appleby, Bruce Jordan, Whit Miller, Ed. Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Joe Coneoda, B. Trout, Joe Assola, Joe Kervillias, Wm. Rodden, Charles Blackburn, Joe Lanier, Albert Hunter, Rich Handlin, Scott Adkins, Frank Petty, Claud Litchford, John Litchford, Otto Alimen, Carey Crumpton, Sam Wooten, Marion Hulsey Maje Hulsey, Tom Watson, Derwood Warren, Harry Birkett, Willis Congo, Leslie Congo, Bud Congo, Charles McKown, J. W. Howard, Bud Williams, (Col), Wm. Price, Peter McMullen Jr., John Murray John T. W. Davis, Brock Smith, (Col), Ed Kehee, and many other defendants too numerous to name,

Defendants.

Come the plaintiffs, and by leave of court, file this their third amended complaint herein, and for cause of action against the defendants above named, and each of them, the plaintiffs state as follows:

1. In the case of Coronado Coal Company, et al., vs. Sebastian County Coal Mining Company, et al., No. 246 Equity, pending on the equity side of this court, F. Bache in a single decree was appointed Receiver of all of the companies above named as plantiffs herein, and thereafter in the same cause said F. Bache resigned as Receiver, and A. S. Dowd, was appointed as the Receiver in succession. The said A. S. Dowd, as Receiver, filed a bond required by law, and by the order of the court, and immediately took possession of all of the property and assets of the said companies.

Subsequently the said A. S. Dowd resigned as Receiver, and C. H. Finley and H. P. Hilliard, plaintiffs above named, were appointed Receivers in succession, filed bonds required by law and by order of the court, and immediately took possession of all the property and assests of the said companies, and all their property and assets are at the date of the filing of this amended complaint in the hands of said C. H.
282 Finley and H. P. Hilliard, as Receivers.

2. That the Bache-Denman Coal Company, the Coronado Coal Company, the Denman Coal Company, and the Mammoth Vein Coal Mining Company, were at the time of the appointment of said Receiver, and for many years prior there to and still are, corporations organized and existing under the laws of the State of West Virginia; and the Mammoth Vein Royalty Company, the Mammoth Vein Coal Mining Company, the Prairie Creek Coal Mining Company and the Sebastian County Coal Company were at the time of the appointment of said Receiver and for many years prior thereto and still are, corporations organized and existing under the laws of the the State of Arkansas; that the Hartford Coal Company was at the time of the appointment of said Receiver and for many years prior thereto and still is, a corporation organized under the laws of the State of Oklahoma or Indian Territory.

3. That the Hartford Coal Company, the Mammoth Vein Coal Company, the Mammoth Vein Coal Mining Company, the Coronado Coal Company and the Prairie Creek Coal Mining Company and each and every one of them were at the time of the appointment of said Receiver and for many years prior thereto, operating coal companies engaged in the production, loading, and shipment of coal for interstate trade and commerce and the coal lands of each of said companies from which said coal was mined and shipped were located in Sebastian County in the State of Arkansas.

4. That prior to the year 1914 and before the commencement of the difficulties hereinafter set forth, the Hartford Coal Company employed about Seventy men; the Mammoth Vein Coal Company employed about Three Hundred men; the Coronado Coal Company employed about Two Hundred and Fifty men; and the Prairie Creek Coal Mining Company employed about Two Hundred and Fifty men, and that
283 all of said operatives were employed by said respective companies in connection with the production, loading and shipment of coal in or about their respectives mines for interstate trade and commerce, and that the value of the

annual shipments and sale of coal by said mines respectively exceeded the following:

Hartford Coal Company,	$ 50,000.
Mammoth Vein Coal Company,	120,000.
Coronado Coal Company,	175,000.
Prairie Creek Coal Mining Co.,	120,000.

That seventy-five per cent of the Coal shipped by each of said mines was sold and shipped to customers outside of the State of Arkansas in the ordinary course of interstate trade and commerce.

That prior to April in the year 1914, the Mammoth Vein Coal Mining Company entered into a written contract with the Mammoth Vein Coal Company and the Prairie Creek Coal Mining Company wherein and whereby it agreed to operate and produce coal from mines of the said Mammoth Vein Coal Company and the Prairie Creek Coal Mining Company for and in behalf or said companies, said Mammoth Vein Coal Company and said Prairie Creek Coal Mining Company continuing to sell and ship the coal so produced from their said respective mines as theretofore, the Prairie Creek Coal Mining Company selling and shipping the coal mined by said Mammoth Vein Coal Mining Company from the mines formerly operated by the Prairie Creek Coal Mining Company and the Mammoth Vein Coal Company continuing to sell and ship the coal produced by the Mammoth Vein Coal Mining Company from the mines formerly operated by said Mammoth Vein Coal Company, and that 75 per cent of the output of each of said mines was so produced, loaded and shipped for customers outside of the State of Arkansas in the course of interstate trade and commerce.

That the Denman Coal Company, the Bache Denman
284 Coal Company, the Sebastian County Coal Company, the Mammoth Vein Coal Company, and the Mammoth Vein Royalty Company, and each and every one of them were financially interested in one or more of the aforesaid operating companies either through contracts or the lease of coal lands on which said operating companies were working or through the ownership of all or the majority of the stock of said operating companies.

5. That the mining of coal, as conducted by said operating companies, is not a manufacturing business, but includes only the taking of the coal in its natural condition from the earth and loading it on the cars of common carriers for transportation by them over their lines to the respective con-

signees and that about 75% of the shipments of said operating companies were made by common carriers on Interstate trains to points outside of the State of Arkansas, including the States of Oklahoma, Kansas, Nebraska, Texas, and Missouri; that among the employees, which each of said companies required for the conduct of said Interstate trade and business, were those who placed the cars of Interstate carriers in convenient places on the side tracks of said carriers for loading for Interstate shipment, those who loaded said said cars of common carriers on said tracks with coal for shipment to points outside of the state, and those who placed said cars so loaded for points outside of the state in their proper place on the tracks of said carriers where they could be hauled by the engines of said carriers over the tracks of said carriers and attached to Interstate freight trains for transportation to points outside of the state, and that the work of shipping coal hereinafter mentioned, includes said loading and lpacing of said cars on the tracks of said carriers; that the ownership and operation of said mines
285 and the taking and producing of coal therefrom, was but one step in the said Interstate trade and business of said companies and that said companies were dependant for the profitable conduct of their business upon the trade which it secured from customers outside of the State of Arkansas, and owned and operated said mines in said State of Arkansas for the purpose of carrying on said Interstate trade and business and would not have purchased or attempted to operate said mines except for the purpose of carrying on said Interstate trade and business, and one of the principal assets of said companies was their good will, trade and business with customers outside of the State of Arkansas and said companies employed agents and salesmen in other states in order to protect, preserve, build up, and increase said Interstate trade, business and good will.

6. That the United Mine Workers of America is an unincorporated association of mine workers engaged in or about the work of mining and shipping coal in different mines in different states throughout the United States, and that its headquarters are located in the City of Indianapolis in the State of Indiana and it is subdivided into about Thirty districts and numerous local unions located in different states of the United States; that said local unions are also a part of the particular district branch having jurisdiction of the territory in which said local union is situated; that every member of any said local Unions and districts is a member of the United Mine Workers of America and subject to the rules laid down in its constitution and by-laws as well as the

constitution and by-laws of the various districts and local unions having jurisdiction over them respectively; that the membership of said United Mine Workers of America exceeds Four Hundred Thousand miners, most of whom
286 are employed by the various union mines hereinafter described.

7. That each of the District branches and Local Unions which are a part of the said United Mine Workers of America are agencies created by said United Mine Workers of America to carry out the purposes and objects of said National Organization and more particularly to act with and for said National Organization in carrying out the general combination and conspiracy in the restraint of interstate trade and commerce as hereinafter more fully set forth.

8. That defendant District 21 of the United Mine Workers of America is one of the aforesaid District Branches of said United Mine Workers of America and has jurisdiction over all Union mines and miners in the States of Arkansas, Oklahoma, and Texas, and that all of the defendant Local Unions above named are affiliated with and subject to the laws of said District #21.

9. That the Local Unions named in the caption as defendants herein are unincorporated associations of mine workers in the State of Arkansas, having a separate president and secretary upon whom process may be served, and said local unions and their members are a part of said United Mine Workers of America and their members are members of said United Mine Workers of America, and the members of each of said Local Unions are so numerous as to make it impracticable to make all of said members defendants herein, and therefore the plaintiffs pray that said Local Unions may be brought into court by service upon their respective officers.

10. That John P. White is president of said United Mine Workers of America and that because of the numerous members of said United Mine Workers of America it is
287 impossible to make each one a party defendant to this cause, but that said United Mine Workers of America is represented in its District %21 by P. R. Stewart formerly president and William McLaughlin, a member of the executive board of District 21 or president thereof, Edward Cunningham as vice-president or president thereof, Tom King, a member of said executive board, James Mullen, a member of the executive board of the United Mine Workers of America, and Frank L. Hayes, vice-president of said United Mine Workers of America, William Green, Secretary and Trea-

surer thereof; that James Mullen is the agent of said United Mine Workers of America for the transaction of all business by said organization in the State of Arkansas and desides in the town of Midland; and the plaintiffs allege that said defendants sufficiently represent the United Mine Workers of America for the purpose of this action and that the service of process upon them and the trial of the suit in which they are parties will constitute proper representation of the United Mine Workers of America.

II. That said United Mine Workers of America and the combination of the defendants hereinafter described, divides all coal mines in the several states of the United States into two classes, one class being called "Union" or Organized mines, because they are operated under an agreement with the United Mine Workers of America or one of its District branches, to employ none but members of that Union in or about the work of producing, loading, and shipping coal and to comply with all the rules and regulations of the United Mine Workers of America and its District branch having jurisdiction over the respective mines in accordance with their geographical location; the second group of said mines as so designated and classified by the defendants are known as Non-union, unorganized, or "Open shop" mines be-
288 cause they refuse to make such agreement with the defendants' combination to employ only members of the United Mine Workers of America exclusively although many of them do not discriminate against or refuse to employ any person on the ground that he is a member of said Union. That the coal produced by said Union mines is hereinafter described or designated as Union coal, and the coal produced by the unorganized non-union or "Open Shop" mines is at times hereinafter designated as Non-union coal.

12. That owing to the restrictions and unreasonable regulations which the United Mine Workers of America imposes on all Union or organized mines, said mines are conducted wastefully and inefficiently and the cost of production and the selling price of Union coal is thereby unreasonably and unnecessarily enhanced and can not successfully compete with the products of Non-union mines throughout the course of Interstate trade and commerce, and it is because of this fact and to protect said Union mines against said Non-union competition in coal of the lower selling price that the United Mine Workers of America and those acting in conjunction with them, have divided all mines in the United States into two classes to be designated respectively as Union mines or Non-union mines in order that they may more readily and

effectively prevent and restrain all Interstate trade and competition in the products of Non-union mines.

13. That except for the anthracite coal mines in the State of Pennsylvania, practically the entire business of mining and shipping coal in the United States is done by what is known as bituminous mines located in the States of Washington, Wyoming, Utah, and Montana in the Northwest, Illinois, Ohio, Indiana and Michigan in the northern Mid-
289 dle States; Iowa, Colorado, New Mexico, Kansas, Missouri, Oklahoma, Arkansas, Texas, Kentucky, Tennessee, and Alabama in the Middle and Southern States and Pennsylvania, Virginia, West Virginia, and Maryland in Eastern States; that each and every one of the bituminous mines in the several states above mentioned is engaged in or subject and liable to competition in the course of Interstate trade, from the mines in one or more of the other states above named, and nearly every one of said mines is subject to competition of the mines of each and every one of the several states above named in reaching or attempting to reach different markets of the United States in various industrial centers in different states through the course of Interstate trade made possible by transportation of common carriers from one state to another.

14. That the mines for which the plaintiffs are acting as Receivers when in operation, compete directy with the mines of Illinois, Kentucky, Alabama, New Mexico, Colorado, Kansas, Oklahoma and other mines of Arkansas for the markets of Louisiana, Texas, Oklahoma, Nebraska, Kansas, Missouri, Iowa, and Minnesota, and are subject to the competition of said mines in endeavoring to reach the various markets of other states through the channels of Interstate trade and commerce. That the mines of Illinois sell coal through the course of Interstate trade and commerce to markets in Louisiana, Texas, Missouri, Nebraska, Kansas and other states, and the operating companies for which plaintiffs Finley and Hilliard are acting as Receivers, sold coal through the course of Interstate trade and commerce to purchasers in said markets and states and thereby entered into Interstate competition with said mines of Illinois in said states, and others, and are subject to and affected by
the Interstate competition of said mines and others in
290 many other states; that except for the unlawful interference of the defendants hereinafter set forth, each of said mines would have engaged in Interstate competition with the said mines of other states as aforesaid in the year 1914.

15. That all of said coal mines of Illinois, Ohio, Indiana, Wyoming, Michigan, Missouri, Iowa, Texas, Arkansas and Oklahoma are Union, and part of the bituminous mines of Pennsylvania, Kentucky, and West Virginia are Union, and that said mines of Colorado, New Mexico, Alabama, Virginia and Tennessee are Non-union or unorganized; that the annual output of bituminous coal in the United States is a little less than 500 million tons, of which the State of Pennsylvania produces over one-third; the States of Ohio, Illinois, and Indiana produce over one-fifth; and the State of West Virginia produces about one-seventh; that at least 60 per cent of the entire production if bituminous coal in the aforesaid states of the United States is produced by the so-called Union or organized mines; that if the attempts of the United Mine Workers and those working in conjunction with them in the unlawful conspiracy hereinafter set forth are successful in carrying out their conspiracy to unionize all the bituminous coal mines of Pennsylvania, West Virginia, Virginia and Colorado as hereinafter set forth, then about 90% of the bituminous coal produced in the United States which enters into Interstate trade and commerce will be coal produced by the so-called Union Mines and if the United Mine Workers of America were successful in all the attacks which it has made in different districts upon Non-union mines in furtherance of said unlawful conspiracy, the said combination would have substantially a complete monopoly of Interstate trade and commerce in coal in the United States and the amount of Non-union coal which entered into
291 Interstate Commerce would be negligible.

16. That the United Mine Workers of America, the defendants, and many other persons to the plaintiffs unknown, now are and for many years past, have been, engaged in an unlawful combination and conspiracy, as hereinafter more fully set forth, in unlawful restraint of trade and commerce in coal among the different states of the United States, and through means whereof are unlawfully attempting to monopolize and are monopolizing said trade and commerce; that in furtherance of said unlawful combination and conspiracy, the defendants, the United Mine Workers of America, and those confederated together with them in said unlawful scheme have combined and conspired together to exclude and drive out of Intertsate trade and commerce, and to restrain and prevent all Interstate trade and commerce in, any and all coal produced, loaded and shipped by so-called Non-union and unorganized mines by hampering, preventing, and interfering with the production, loading and ship-

ment of coal for Interstate commerce in any of the coal-mining states by any so-called unorganized or Non-union mines, so that it cannot become a subject or commodity of Interstate trade and commerce and can not enter into Interstate competition with the products of so-called Union or organized mines located in divers states, and to further carry out said conspiracy by hampering and interfering with the production, loading and shipment for Interstate trade and commerce by said Non-union or unorganized mines in any and all the several states where said mines are, or may be located, with the purpose and intent of increasing the cost of production, loading and shipment of said commodities so destined for Interstate trade and commerce and the resulting selling price thereof in the markets of the differ-
292 ent states reached by said Interstate shipments, so that said commodities can not successfully compete in said markets with the coal produced, loaded and shipped by the so-called Union or organized mines working under agreement with said unlawful combination in the several states where located.

17. That one of the objects of said unlawful combination and conspiracy in restraint of Interstate trade is to monopolize the trade or occupation of mining coal for the members of the United Mine Workers of America and prevent the employment of Non-union men in any part of the United States at the trade or craft of mining coal and prevent the products of the labor of Non-union mines from becoming subjects or commodities of Interstate trade and commerce in order thereby to more effectually compel them to abandon the trade or vocation of coal mining or become members of the said United Mine Workers of America and thereby to secure complete monopoly and unification in control and management so far as labor is concerned of all competing mines in all parts of the United States as has already been achieved by said combination in many states as aforesaid.

18. That the scope and object of said illegal scheme is to suppress and destroy the business of all Non-union and unorganized mines whose products enter into Interstate trade and by various means to prevent any mining company from engaging in the business of selling coal for Interstate trade as an unorganized mine and prevent any of the so-called Union or organized mines from commencing operations as a Non-union or unorganized mine and thus by such suppression, obstruction, and destruction of the business of any of the independent and competing mines in the several states which are operating or may hereafter operate on a

Non-union or unorganized basis, to completely monopolize Interstate trade and commerce for Union coal pro-
293 duced under the domination of the United Mine Workers of America, and maintain the price of said Union coal in Interstate commerce by protecting it from Interstate competition of coal which but for said combination would be mined by the more efficient Non-union mines.

19. That the object and purpose of said combination in extending its domination and control over separate and competing mines in different states, which in the absence of said unlawful combination would be engaged in Interstate competition with each other, and the sole object and purpose of said combination in destroying or preventing Interstate shipments of coal by all mines in any of the coal-mining states, which do not acquiesce in its control and domination, is to prevent any coal not produced by Union mines from becoming a subject of Interstate commerce and entering into Interstate competition with the products of so-called Union mines and to further carry out agreements and understandings hereinafter described, between the proprietors of the so-called Union mines and said unlawful combination to the effect that the defendants and others acting in conjunction with them in said unlawful conspiracy will protect Interstate trade and business of said Union mines from the competition of unorganized mines by employing all the means available to organized labor to prevent the production, loading and shipment of coal for Interstate trade and commerce by unorganized mines.

20. That in furtherance of said unlawful combination and conspiracy to unduly restrain Interstate trade and commerce and to exclude the products of all unorganized mines and Non-union miners from Interstate trade and commerce, the United Mine Workers of America working through their District organizations, and the defendants, have ordered and coerced strikes of employees employed by unorganized
294 mines in different states and by violence, intimidation, mobs and riots prevented the employment of any miners in said mines for production, loading or shipment of coal for Interstate commerce, and by dynamite and arson and other unlawful means have destroyed the facilities of said unorganized mines for producing, loading and shipping coal for Interstate commerce and by divers other means have hampered, interfered with, prevented, and attempted to unduly enhance the cost of, producing, loading and shipping of coal by said unorganized mines for Interstate commerce, so that it would no longer be marketable as an article or com-

modity of Interstate trade and commerce in competition with Union coal. That each and every one of the acts hereinafter set forth, wherein and whereby the production, loading and shipment of coal by plaintiffs or any other unorganized mines, was destroyed, interrupted, hampered or interfered with, were done and carried out in furtherance of the aforesaid combination and conspiracy to unduly and directly restrain Interstate trade and commerce and with the intent, purpose and effect thereof as hereinabove set forth, and with the purpose an deffect of inducing and forcing persons and corporations formerly engaged in Interstate trade as Non-union mines to refrain therefrom until such times as they would carry on said business as Union mines upon terms dictated by said combination and conspiracy.

21. That in furtherance of the combination and conspiracy to restrain Interstate trade and commerce in bituminous coal and to prevent any Non-union coal from entering into Interstate trade and commerce, the United Mine Workers of America and its District branches have from time to time since 1898 entered into negotiations, understandings and agreements with the operators of Union Mines in the
295 States of Ohio, Illinois, and Indiana and other states, wherein and whereby it was understood and agreed that in consideration of said operators agreeing to or continuing to operate Union mines, the said United Mine Workers of America, the defendants and those working in conjunction with them in said unlawful scheme and purpose, would by strikes and the usual unlawful means which invariably accompany all strikes conducted by the United Mine Workers or any of its branches, prevent the production and shipment of bituminous coal by all so-called Non-union and unorganized mines in other states whose products come into Interstate competition with the products of said Union mines through the course of Interstate trade and commerce, and that said agreement and understanding required said United Mine Workers and its said Branches to use all means in its power to interfere with and prevent Interstate commerce in bituminous coal by all unorganized mines and by all competitive mines which should thereafter become Non-union or unorganized and that the combination and conspiracy herein described to interfere with and destroy the business of the mines for which plaintiffs Finley and Hilliard, are acting as Receivers, and all acts in furtherance thereof hereinafter described were done in pursuance of said illegal arrangement, contracts, and understandings between the said United Mine Workers and said Union Operators to destroy and prevent

Interstate trade and commerce in bituminous coal from unorganized fields by destroying or interfering with the facilities of said unorganized mines for the production and shipment thereof.

22. That in furtherance of said illegal combination and conspiracy to restrain and prevent Interstate trade and commerce in bituminous coal and drive all Non-union coal out of Interstate trade and commerce, the said United
296 Mine Workers of America and those working in conjunction with them, did at various times since 1898, embark and engage upon a general campaign and crusade to prevent all the Non-union bituminous mines in the State of Pennsylvania which were producing about 12 per cent of the entire output of bituminous coal in the United States from engaging in Interstate trade and commerce in Non-union coal, by ordering a strike of employees in said mines and through violence, intimidation and threats, preventing the employment of any operatives for the production, loading and shipment of coal, and by the use of fire and explosives destroying the facilities of said mines for the production, loading and shipment of said coal;

And that in or about the year 1911 said United Mine Workers and those acting in conjunction with them, did undertake to and did employ said means in furtherance of said unlawful design against certain Non-union mines in Westmoreland and Irwin Districts in the State of Pennsylvania known as the Westmoreland and Irwin mines, in order to prevent said mines from engaging in Interstate trade and commerce in Non-union coal;

That in furtherance of said illegal combination and conspiracy to restrain trade among the several states in coal as hereinabove set forth, said United Mine Workers and those acting in conjunction with them, did in the year 1913 enter into a general campaign and crusade against Non-union mines in the State of Colorado and agreed to and did order a strike of said employees of said various competing mines of said state and by violence, threats, and intimidations, did prevent said mines from procuring further employees to produce, load or mine coal for the Interstate trade and commerce of said mines, and did by use of fire and explosives destroy the facilities of said mines for the production, loading and shipment of coal
297 for Interstate trade and commerce in order thereby to destroy Interstate trade and commerce in Non-union coal;

That at various times since 1906 and in furtherance of said unlawful scheme to restrain trade in bituminous coal among the several states, said United Mine Workers and those acting in conjunction with them, did engage in a general campaign and crusade to destroy Interstate trade and business of the Non-union bituminous mines in West Virginia by ordering strikes of the employees of said companies engaged in the work of producing, loading and shipment of coal for Interstate trade and commerce and by violence, threats and explosives, and by preventing the employment of other operatives to carry on said work and by fire and explosives destroying the facilities of said mines for the production, loading and shipment of said coal for Interstate trade and commerce; and that said United Mine Workers and those working in conjunction with them have from time to time on other occasions employed all of said means to destroy the business of all of said Non-union companies in Pensylvania, West Virginia, Colorado and other states in order thereby to prevent said companies from shipping Non-union coal for interstate trade and commerce.

23. That early in the year 1914 all said companies for which the plaintiffs Finley and Hilliard are acting as Receivers, decided that said operating companies should be conducted on a Non-union or openshop basis without discrimination against any employee on the ground that he was or was not a member of any Union, and that about the middle of March, 1914, the Mammoth Vein Coal Company and the Prairie Creek Coal Mining Company closed down their said mines and discontinued operation as Union mines preparatory to re-opening upon the
298 Non-union or open-shop basis in the month of April 1914; that the Hartford Coal Company had not been in operation for over a year previous thereto but it was the plan and intention of said company to also re-open upon the Non-union or open-shop basis as soon as it became expedient so to do, or at least in the summer of 1914; that the Coronado Coal Company continued operation as a Union company until April 18, 1914, when its employees were ordered out on a strike by the defendants in furtherance of the unlawful conspiracy herein set forth, because some of the individuals interested in said mines that were going to be operated as openshop had also financial interests in said Coronado Coal Company and might use their profits from said company to carry on Interstate commerce in Non-union coal from said other mines; that before said strike took place and early in the year 1914, as aforesaid, it was the intention of the said Coronado Coal Company and the persons and corporations financially interested in it that said company should be placed upon the

Non-union or open-shop basis of operation as soon as expedient or at least by the summer of 1914; that said plan of operation for said mines was in part to be carried out by having the Mammoth Vein Coal Mining Company operate the mines of the Mammoth Vein Coal Company and the Prairie Creek Coal Mining Company under its written contract described in paragraph marked "4" herein.

24. That in the year 1914 each of said operating companies for which the plaintiffs Finley and Hilliard are acting as Receivers had made preparations to do a large and profitable business with dealers in coal in other states and to renew, manage, and conduct said interstate trade and commerce upon a Non-union and "open-shop" basis and the condition of the market outside of the State of Arkansas in which said companies would sell their said coal and the condition of the business of said companies was such as to warrant the full
299 belief that the ensuing season would be a profitable one to said companies and that in the year 1914 when the defendants undertook to destroy the business of said operating companies, for which the plaintiffs Finley and Hilliard are now acting as Receivers, some of said operating companies had actually commenced, and were engaged in carrying on, said Interstate trade and business, and enjoying said Interstate good will and were shipping Non-union coal to customers in other states in the court of Interstate trade and commerce, and the rest of said operating companies were prepared to commence and renew their Interstate trade and business and were intending to renew said Interstate trade and business on a Non-union basis.

25. That at all times after April first, 1914, the defendants and those acting in conjunction with them in furtherance of the unlawful conspiracy hereinafter set forth, well knew of said intentions, plans, and costly preparations of said companies, persons and corporations in control thereof, to operate each and every one of said mines in the future upon the open-shop or Non-union basis, and to sell and ship Non-union coal in Interstate commerce in competition with Union mines, as soon as possible, and that all of the acts hereinafter described which were done by the defendants and those acting in conjunction with them to injure and destroy the business and property of said companies, were done in furtherance of said unlawful scheme and conspiracy to prevent Interstate trade and commerce in bituminous coal produced, loaded or shipped by so-called Non-union or open-shop mines.

That in April 1914 and at various times thereafter in furtherance of said plans to have all said companies engage in Interstate trade as Non-union mines, some of said op-
300 erating companies for which plaintiffs Finley and Hilliard are acting as Receivers, began to operate their said mines on an open-shop basis, or as Non-union or unorganized mines, and from time to time in the year 1914 employed large numbers of men engaged respectively in the work of mining, loading and shipping coal for Interstate trade and commerce, preparatory to employing additional miners and opening additional mines for the purpose of carrying on an Interstate trade and commerce on a still larger scale, and preparatory to having all of said operating companies do likewise. That none of said miners so employed belonged to or had any connection or association with, the United Mine Workers of America, or any of its District branches or any of the defendants, but that the defendants, the United Mine Workers of America and those acting in conjunction with them, in furtherance of their combination and conspiracy to drive Non-union coal out of Interstate trade and commerce and to restrain and prevent Interstate trade and commerce therein, and in furtherance of their understanding with the proprietors of Union mines competing with said mines, combined and conspired together in furtherance of said conspiracy, to ruin and destroy the Interstate trade and commerce of said mines and to prevent them from commencing or engaging or continuing therein by interfering with and preventing the production, loading and shipment of coal for Interstate commerce by said mines and in furtherance of said combination and conspiracy, they agreed upon and did the following acts : By threats, intimidation, violence, and unlawful assemblies, they drove and frightened away all of the men employed by said mines at the work of mining, loading, and shipping coal for Interstate trade and commerce, including those men employed at the work of placing cars of Interstate carriers at the proper place on the tracks of said carriers where they could be loaded with
301 coal for shipment outside of the state, and including those men employed in loading said cars of the common carriers, and those who placed the cars after loading upon the proper part of the tracks of the common carrier where they could be taken up by the Interstate trains of said carriers for transportation to points outside of the state; and by threats, violence, murder, mobs, and riots, prevented the said companies from employing or obtaining for employment any other operatives to load said cars of Interstate carriers and to manipulate and place said cars before and after loading for Interstate transportation in their proper place on the tracks of the car-

rier; and by the same unlawful methods, prevented said companies from employing or obtaining for employment any miners whatsoever to perform any of the work of mining, loading and shipping coal for said mines; and by the use of fire, dynamite and other explosives, they did destroy the structures and other valuable facilities of said mines for the production, loading, and shipment of coal for Interstate trade and commerce, and did destroy the cars of Interstate carriers, which were stationed at or about the mines waiting to be loaded with Interstate shipments, and destroyed cars of said carriers and shipments already loaded thereon to be hauled away by Interstate carriers for transportation to consignees outside of the State of Arkansas and destroyed the business of other concerns in which the same persons were interested in order to impoverish said persons and prevent their carrying on said Non-union coal-mining business; that by said unlawful means said defendants and those acting in conjunction with them, prevented any of said companies from engaging or continuing to engage in Interstate trade and commerce; and the defend-

302 ants well knew and intended that the destruction of the coal mines of said operating companies located in Sebastian County, Arkansas, and their interference with the operation thereof, would result in the destruction of the Interstate trade and commerce of said companies, and the defendants destroyed said mines for the express purpose of entirely destroying and ruining said Interstate trade and business; that none of the defendants or anyone acting in conjunction with them had any interest or object in destroying said property and interfering with the operation of said mines as aforesaid, except in so far as said destruction and interference prevented the sale and shipment of coal by the said companies in competition with Union mines in which said combination was interested, and their primary and direct object in so doing was to destroy the Interstate trade and commerce of said companies because it constituted 75 per cent of the trade and commerce conducted by them, and that the destruction of the working organization and production facilities of the said companies was but a step in a scheme and purpose to destroy Interstate trade and commerce in Non-union coal and prevent it from coming into competition with Union coal in the course of Interstate trade and commerce.

That the names of the defendants and those acting in conjunction with them, participating in the acts above in this paragraph 26 mentioned, in so far as plaintiffs are able to specify the same are the following, said acts having been participated in also by many other individuals, parties to said combination

and conspiracy and accomplices therein whom plaintiffs are unable to name:

Clint Burris; Will Johnson; Pete R. Stewart; John P. White; A. S. Howard; W. J. Hamilton; Charles McCowen; John
303 Kiger; Thomas Haggerty; James McNamara; R. M. Hamilton; Freda Hogan; Ed Brandon; John Manick; Wm. Green; Joe Smith; John Walker; Sandy Robinson; Sam Warren; Bob Razorback; Roy Smith; Mike Cisco; Dr. Chambers; Fred Holt; Frank Pattie; Joe Gravina; Robt. Davis; Hervey Davis; Omar Baker; Wm. McLaughlin; Sell Goddard; Bill Coffelt; Joe Overman; Lewis Fioretti; Pete Clements; Tom Kiger; F. M. King; Henry West; Dave Crofton; Tom King; Gus Null; Will Newman; Ed Crigger; Bert Crigger; Gene Newman; Lee Anderson; Oscar Rodenberry; I. N. Witt; Dan Fitzgerald Jess Edwards; Andy Kyle; Marion Hulsey; Jess Griffin; John Fridlenhouse; Pete McMullen; Zed Crigger; Jim Lowery; Chas. Farley; Bill Stevenson; J. W. Howard; Walter Newman; Maje Hulsey; John Newton; E. P. Metz; Walter Sweet; Edw. Cunningham; Leo Bach; Bass Shelley; Jim Ford; G. Daniels; Tom Congo; Lewis Evans; N. Wyatt; M. D. Berry; Frank Scofield, Frank Worstine; Frank Hayes; Gus Reed; Bob White; Isaac Gould; Jim Lee; Jim Herbert; W. D. Thompson; Joe Coneodo; Jim Meeks; James Walker; Dave Wilkerson; Dick Blair; A. H. Brown; Joe Mazill; Henry Willis; Jim Davis; O. A. Brooke; W. A. Davis; John Miller; Chas. Bach; Edgar Davenport; John Graham; Sid Shaw; B. Trout; Howard Shaw; Joe Loyd; Tom Rodden; Claud Carruth; Fred Todenhaufer; W. T. Morgan; Chas. Hendricks; Wm. Rodden; Geo. Reed; W. P. Fitzgerald; Jake Thompson; Fred Wooten; Peter McMullen, Jr.; Will Allen; Joe Assola; George Manick; Robert Johnson; Jim Pattie; Moro Collo; J. A. Morphew; George Burnett; Frank Savage; James Clements; Louis Schmidt; Will Miller; "Doc" Jones; Pink Dunn; A. S. Davis; Ed Meeks; Blue Johnson; Marvin Stanfield; Foster Bean; Sim Phillpotts; John Mastell; John Lowery; Mrs. Marion Crumpton; Pickins Tillery; M. B. Appleby; Bob Graham; Au-
304 gust Smith; Loyd Clayborn; Bruce Jordan; Charles Dodd; John Bumpass; Whit Miller; S. O. Harris; Mike Hunter; Ed Baker; Ed Long; John Miller, Jr.; E. W. Jones; H. S. Treadway; Gul Olson; Will Price; Roy Smith; Virgil Wann; John Turnipseed; M. F. Ward; John Wooten; J. W. Thomas;

That the dates when the principal acts were committed which caused injury to and destruction of the physical property of the companies of which plaintiffs Finley and Hilliard

are acting as Receivers, were April 6th, 1914, July 17th, 1914, July 18th, 1914, July 19th, 1914, and July 20th, 1914.

That the names of those employed by the companies of which plaintiffs Finley and Hilliard are acting as Receivers, prior to the acts of defendants herein complained of, who or some of whom were driven or frightened away from said mines by defendants as aforesaid were inter alios the following:

J. T. Allison; F. Davis; J. W. Sylesberry; G. Davis; J. E. Sylesberry; H. Koontz; S. C. Thomas; Halles Owens; J. Prince; Jim Colclosure; E. Howard; Earl Koontz; B. Hobson; J. N. Hamilton; O. Jones; Chase Suttles; C. Prince; Bud Willett; J. H. Minton; Harry Dunlap; Grover Handley; Tom Perry; E. B. Burton; Chase H. Newman; Fay DeQuasie; Jack Brooks; J. W. Kursey; Ed Daugherty; W. Sanders; A. Daugherty; Ed Hoadley; C. A. Russell, T. J. Roberts; A. D. Hallaway; W. Waddell; J. P. Malloy; H. Lovell; Peter Epperson; W. Young; J. R. Shanklin; H. Lyston; T. D. Malloy; M. A. Roberts; John Baskin; G. Watts; J. A. Parrish; W. E. Hargar; J. H. Smith; A. O. Hale; Oliver Jones; J. J. Garrett; Walter Lancaster; Joe Waser; Ed Stricklin; Bob Morris; H. B. Werschky; Jim Grant; Abe Moses; J. J. Johnson; William Thomas; John Long; Carl Saalfeld; E. Doughitt; M. Doughitt; Jim Gullett; Levi Brown.

305 That the dates on which the overt acts were committed which resulted in the driving away or frightening away of the above named employees of said companies and in the deterring other persons, whose names are unknown to plaintiffs, from entering their employ were principally the following dates during the year 1914:

April 5, 6, 7, 13, 20 and 22; May 13, 16, 18, 25, 26 and 29; June 9, 10, 11, 15 and 30; July 13, 14, 15, 16, 17, 18, 19 and 20;

Plaintiffs also believe that other similar acts were committed by said defendants and individuals above named and by other persons, whose names plaintiffs are unable to specify, acting in conjunction with them, on other dates between April 1, 1914 and July 20, 1914, and subsequent to July 20, 1914, down to the filing of this suit, and subsequent thereto, by which there was created a continuous atmosphere of terrorization which effectively prevented any persons from entering or continuing in the employ of said companies through fear of harm or violence to their persons or property from defendants.

27. That except for the unlawful combination and conspiracy of the defendants and the acts done in furtherance thereof as aforesaid, the said Hartford Coal Company, the Mammoth Vein Coal Company, the Coronado Coal Company, the Prairie Creek Coal Mining Company, and the Mammoth Vein Coal Mining Company would have, long prior to the commencement of this action and in a short time, secured employees to man their mines and engage in the work of producing, loading and shipping coal for Interstate trade and commerce and would as Non-union and unorganized
306 mines have successfully shipped coal to the amount of over $600,000. annually in the aggregate and would have been able to realize a large profit thereon.

28. That by reason of said combination and conspiracy of the defendants in restraint of Interstate trade and commerce and the acts done in furtherance thereof to injure and destroy the business of the said companies for which the plaintiffs Finley and Hilliard are acting as Receivers, the said companies have suffered great loss and injury to their said business and property in the total sum of $740,689.42, which is the total amount of damage suffered by all of said companies to the date of filing this Amended Complaint. Said sum is apportioned between said companies and itemized as follows:

307 Prairie Creek Coal Mining Company.

Physical damage to plant and equipment	$ 64,500.00	
Loss of advance development	18,332.10	
Loss of house rents	3,384.00	
Loss of value of leaseholds cancelled	194,841.60	281,057.70

Mammoth Vein Coal Company.

Physical damage to plan and equipment	59,193.98	
Loss of advance development	13,651.80	
Loss of advance royalties	5,802.56	
Loss of house rents	2,312.00	
Loss of value of leaseholds cancelled	36,250.00	117,210.34

Mammoth Vein Coal Mining Company.

Loss of advance development	8,600.29	
Loss of advance royalty	12,591.52	
Loss of value of leaseholds cancelled	171,761.63	192,953.44

Coronado Coal Company.		
Physical damage to plant and equipment	35,578.72	
Loss of house rents	1,134.00	
Loss of value of leaseholds cancelled	52,984.00	89,696.72
Hartford Coal Company.		
Physical damage to plant and equipment	2,650.00	
Loss of advance development	16,666.67	
Loss of value of leaseholds cancelled	8,898.30	28,214.97
Sebastian County Coal Company.		
Loss of value of leaseholds cancelled	17,661.10	17,661.10
Mammoth Vein Royalty Company.		
Loss of royalties	4,000.00	4,000.00
Bache-Denman Coal Company.		
Liability on bond	4,245.15	4,245.15
Denman Coal Company.		
Physical damage to plant and equipment	4,150.00	
Loss of house rents	1,500.00	5,650.00
		740,689.42

By reason of the contractual relations existing between the Prairie Creek Coal Mining Company and the Mammoth Vein Coal Mining Company above referred to, the damage above alleged as having been suffered by the Prairie
308 Creek Coal Mining Company, was also suffered by the Mammoth Vein Coal Mining Company; by reason of the contractual relations existing between the Mammoth Vein Coal Company and the Mammoth Vein Coal Mining Company, above referred to, the damage above alleged as having been suffered by the Mammoth Vein Coal Company on account of loss of advance development, loss of advance royalty and loss of value of leaseholds cancelled, and $56,543.98 of the total of $59,193.98 on account of physical damage to plant and equipment, was also suffered by the Mammoth Vein Coal Mining Company; but one recovery being asked for each item in each instance hereunder.

29. The said conspiracy of the defendants was an unlawful contract, combination and conspiracy in restraint of trade and commerce among the several states of the United States in violation of the Anti-Trust Act of Congress of July 2, 1890. The said companies for which plaintiffs Finley and Hilliard are acting as Receivers were, by reason of said unlawful combination and conspiracy of the defendants, damaged and injured in their business and property in the total sum of $740,689.42. And by reason of the provisions of said Act of Congress of July 2, 1890, the plaintiffs, Finley and Hilliard as Receivers thereof are entitled to recover of and from the defendants, and each of them, the damages prescribed by said Act of Congress, which is three times the actual value of the property injured and destroyed, and plaintiffs Finley and Hilliard are, therefore, entitled to recover of and from the defendants and each of them the total sum of Two Million Two Hundred twenty-two thousand, sixty-eight dollars and twenty-six cents ($2,222,068.26) and all costs and reasonable attorneys fees, as provided in said Act of Congress.

30. The plaintiffs allege that the said United Mine Workers of America has no property known to the plain-
309 tiffs except the funds which it has to its credit in the American National Bank of Fort Smith, Arkansas, and the dues which are paid to it by said United Mine Workers of America by the members thereof, which dues are paid through the coal operators and in Arkansas are paid through the Western Coal & Mining Company, the Central Coal & Coke Company, the Bolen-Darnall Coal Company, the Branner Coal Company, and other coal companies operating in the State of Arkansas and other states. The said United Mine Workers of America have entered into a contract with the coal operators in District No. 21 and under that contract there will be due and paid to said United Mine Workers of America in said District No. 21 and in other states, especially the States of Kansas, and Oklahoma, large sums of money. A part of said funds belonging to said United Mine Workers of America is now in the American National Bank of Fort Smith, Arkansas, and large sums will also be due from the coal companies above named, to-wit: The Central Coal & Coke Company, the Western Coal & Mining Company, the Bolen-Darnall Coal Coimpany, the Branner Coal Company, and the other coal companies. And these plaintiffs have no other means of having any judgment which they may obtain against the defendants satisfied other than having said sums of money attached and garnished and impounded in the

hands of said coal companies and said bank. The said defendants are about to remove and will remove a material part of their property out of said state, not leaving enough therein to saisfy the claim of the said plaintiffs, and therefore said plaintiffs ask an attachment against said funds and ask that a writ of garnishment herein be issued against the American National Bank of Fort Smith, Arkansas, and the Western Coal & Mining Company, the Central Coal &
310 Coke Company, the Bolen-Darnall Coal Company, and the Branner Coal Company, and such other parties as plaintiffs may show to have in their hands money and property belonging to said defendants. The said plaintiffs ask that each of said defendants, be and such others as may be suggested be, served with said writ of garnishment and attachment, and that the said garnishees be required to answer herein, and plaintiffs herewith tender a good and sufficient bond and also tender said affidavit required by law for said writs of garnishment and attachment.

Premises considered, the plaintiffs pray judgment against the said United Mine Workers of America and each of the defendants in the sum of Two Million, Two Hundred Twenty-two thousand, sixty-eight dollars and twenty-six cents, and all costs and reasonable attorney's fees herein.

Second Count.

For further cause of action against the defendants, the plaintiffs herein allege the facts as set forth in the first count above, and further state that the said unlawful conspiracy, formed by the said defendants, as set forth in said first count which is made a part hereof was formed unlawfully and wilfully, and with the unlawful and wilful purpose and design of preventing the plaintiffs from operating their mines, and of injuring and destroying, as shown above; the said plaintiffs were damaged by reason of said conspiracy in the sum of $740,689.42, and said plaintiffs are entitled to recover that sum as actual damages and are entitled to recover the further sum of double that amount as punitive damages, or a total sum of Two Million, Two Hundred Twenty-two Thousand, sixty-eight dollars and twenty-six cents ($2,222,068.26).

Premises considered, the plaintiffs pray judgment
311 against the defendants for said sum of $2,222,068.26 and all costs herein laid out and expended and for reasonable attorneys fees.

ROGER B. HULL
HENRY S. DRINKER Jr.
READ & McDONOUGH
Attorneys for Plaintiffs.

Affidavit.

I, Clyde H. Finley, on oath state that I am one of the Receivers referred to in the above and foregoing complaint, and that the matters and things set forth in the above complaint are true to the best of my knowledge and belief.

Affiant further states in support of the application of the plaintiffs for order of attachment and writ of garnishment herein as follows:

First. The plaintiffs claim is due for the destruction by the defendants of the plaintiff's property as described in the complaint, and for treble damages as provided in the Anti-Trust Act of Congress. The property of the plaintiffs was destroyed unlawfully, willfully, and knowingly by the defendants.

Second. The said claim is just and plaintiffs are entitled to recover the amount claimed in the above and foregoing complaint. The amount which this affiant believes that plaintiffs ought to recover is set forth in the complaint, and is the sum of $2,222,068.26.

And affiant further states that the defendants are about to remove and have removed a material part of their property out of the State of Arkansas, and not leaving enough therein to satisfy the claim of the plaintiffs.

CLYDE H. FINLEY
One of the Receivers.

Subscribed and sworn to before me this 27 day of
312 February, 1917.

J. SAM WOOD
(Notarial Seal) Notary Public.

My commission expires Aug. 18, 1919.

---

313 (Record Entry, February 27, 1917, of the filing of Third Amended Complaint.)

Before Judge Youmans.

This day come the plaintiffs by Henry S. Drinker, Jr., Roger B. Hull and James B. McDonough, their attorneys, and by leave of court file third amended complaint.

---

314 Motion to Amend Caption to Third Amended Complaint.

Filed in U. S. District Court February 28, 1917.

Come the plaintiffs herein and ask leave of the court to amend the caption to the last amended complaint by adding thereto, as defendant, after the words "United Mine Workers of America," the following:

"District Number 21 of the United Mine Workers of America."

In support of this motion the plaintiffs respectfully show that the body of the complaint makes said District No. 21 a party defendant.

Premises considered, the plaintiffs pray that said amendment may be made, as above prayed.

R. B. HULL
H. S. DRINKER JR.
JAMES B. McDONOUGH
Attorneys for Plaintiffs.

---

315 Order Allowing Amendment to Caption of Third Amended Complaint.

Entered in U. S. District Court February 28, 1917.

FRANK A. YOUMANS,
Judge.

On this day there came on for hearing, the motion of the plaintiffs to amend the caption in the above entitled cause, by adding thereto the words "District Number 21 of the United Mine Workers of America" after the words "United Mine Workers of America," in the caption.

The court, being well and sufficiently advised in the premises, grants said motion, and the complaint is therefore amended by adding said words in the caption.

---

316 (Motion for Leave to Amend Marshal's Return on summons issued to District No. 21, of the United Mine Workers of America.)

Filed in the U. S. District Court, February 28, 1917.

Come the plaintiffs herein, and respectfully show to the court that this suit was originally brought on the first day of

December, 1914, and that at that time writs of attachment were issued against the property of District Number 21 of the United Mine Workers of America, and a summons also issued and served upon the District Number 21 of the United Mine Workers of America by delivering to the president thereof a true and perfect copy of said summons, and in making the return on said summons, the marshal of the United States Court, made a return showing service upon the President of said District.

The plaintiffs pray leave of the court to have the marshal amend said return by showing service upon District Number 21 of the United Mine Workers of America; and plaintiffs will ever pray.

R. B. HULL
H. S. DRINKER JR.
JAMES B. McDONOUGH
Attorneys for Plaintiffs.

---

317 (Order, February 28, 1917, allowing Amendment to Marshal's return on summons issued to District, No. 21, of the United Mine Workers of America.)

Before Judge Youmans.

There came on for hearing the application of the plaintiffs for leave to have the return of service amended so as to show service upon District Number 21, of the United Mine Workers of America.

The court, being well and sufficiently advised in the premises, grants said motion.

It is therefore by the court ordered, adjudged and considered, that the plaintiffs may cause said return to be amended by showing service upon District Number 21 of the United Mine Workers of America.

---

318 (Motion for the issuance of summons to District, No. 21, of the United Mine Workers of America, etc.)

Filed in the U. S. District Court, February 28, 1917.

Come the plaintiffs and respectfully show to the court that upon the summons, attachment and appearance in this cause, District Number 21 of the United Mine Workers of America is a party defendant, and is a party defendant by reason of having been served as required by law. The plaintiffs, however, respectfully show that some question has arisen as to

whether or not due service has been had upon said District Number 21, and as to whether or not said District Number 21 is by the complaint a party defendant. Plaintiffs respectfully show and contend that said District Number 21 is a party defendant, and has been duly served, but for the purpose of removing all questions on the subject, said plaintiffs pray the court for an order directing a summons to issue against District Number 21 of the United Mine Workers of America, and with an order that said District be served by the issuance of a summons and service of the same upon the present president of said District Number 21, of the United Mine Workers of America.

Plaintiffs respectfully show that the present home of the present president of said District Number 21 is in the State of Oklahoma, and said president may or may not be found in the State of Arkansas, but can be found in the State of Oklahoma.

The plaintiffs respectfully urge that they do not waive the service which they have already had upon said District Number 21, and upon its officers and presidents as upon Dis-
319 trict Number 21, and do not waive their right of insisting that said District Number 21 has appeared herein, and has waived any issuance of any summons or service thereof; but ask this additional summons, simply to remove any question as to service upon said District Number 21. The name of the President of said District Number 21 at this time is Jolin Wilkerson. He will be found at McAlester, in the State of Oklahoma.

Premises considered, the plaintiffs pray the issuance of a summons, directed to District Number 21, of the United Mine Workers of America, and that the same be issued by the clerk and delivered to the proper marshal to be served upon the President of said District, as service upon said District Number 21.

R. B. HULL
H. S. DRINKER JR.
JAMES B. McDONOUGH
Attorneys for Plaintiffs.

320 (Order, February 28, 1917, for an Additional Summons to District, No. 21, of the United Mine Workers of America.)

Before Judge Youmans.

There came on for hearing the application of the plaintiffs for an additional summons against District Number 21 of the United Mine Workers of America, and the court being well and sufficiently advised in the premises, grants said motion.

It is therefore by the court ordered, adjudged and considered that the clerk be directed, and he is hereby authorized to issue a summons, directed to the United States Marshal for the Eastern District of the State of Oklahoma, with instructions to serve said summons upon the present president of District Number 21 of the United Mine Workers of America.

---

321 Summons issued February 28, 1917, and Return.

Filed in U. S. District Court March 20, 1917.

United States of America
Western District of Arkansas
Fort Smith Division.

The President of the United States of America, to the Marshal of the Eastern District of Oklahoma:

You are commanded to summon District Number 21 of the United Mine Workers of America to answer within thirty days after service of summons, a complaint filed against said District No. 21 in the District Court of the United States for the Western District of Arkansas, Fort Smith Division, by Coronado Coal Company, et al, and warn it that upon its failure to answer, the complaint will be taken for confessed; and you will make due return of this summons on the first day that said court shall be in session after twenty days after the date of issuance hereof.

In Witness Whereof, the Honorable Frank A. Youmans, Judge of the District Court of the United States for the Western District of Arkansas, has caused the seal of said court to be hereto affixed this 28 day of February, A. D. 1917.

(Seal of Court) WM. S. WELLSHEAR,
Clerk.

United States of America,
State of Oklahoma,
Eastern District thereof.

The enclosed summons came to my hand this 18th day of March, 1917, and I have duly served the same upon
322 District 21 of the United Mine Workers of America by delivering to John Wilkerson, president of District 21 of the United Mine Workers of America, a true and perfect copy of said summons, which copy of said summons was delivered to said John Wilkerson, president of District 21 of the United Mine Workers of America at McAlester in the State of Oklahoma, Pittsburg County, on the 19th day of March, 1917 and I do hereby so certify.

B. A. ENLOE, JR.
U. S. Marshal.
By J. O. Peters
Deputy Marshal.

---

323 (Demurrer of United Mine Workers of America, et al., to Third Amended Complaint.)

Filed in U. S. Dist. Court, March 17, 1917.

Come now the United Mine Workers of America, Local Unions Number 340, 560, 1130, 1526, 1530, 1565, 1810, 1814, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2494, 2766, 2769, 2770, 2772, 2841, and 2880, joining together in this motion for convenience only, and each separately says that, without waiving any rights under its motion to quash the summons and pretended service thereof heretofore filed and overruled, and without waiving any right under its demurrers heretofore filed and overruled, but reserving all rights under said motions and demurrers, and still insisting upon the same and protesting against being required to proceed further in this case, demurs to the third amended complaint, filed herein by the plaintiffs on February 27, 1917, for the following reasons:

They separately and severally demur to the first paragraph of said complaint upon the following grounds:

1. The court has no jurisdiction of the person of either of these named defendants, or of the subject matter of the action, it appearing upon the face of the complaint that the acts of the defendants complained of were not an interference with interstate commerce, or a violation of the federal statute upon which said complaint is predicated.

2. That the complaint fails to disclose that this court has any jurisdiction of the said cause of action therein set forth, for the reason that the acts of the defendants complained of were not an interference with interstate commerce, or a
324 violation of the federal statute upon which it is predicated.

3. That the complaint shows upon its face that the said defendants are, each, a voluntary unincorporated association or labor union, not organized for profit, and not carrying on or engaged in any kind of business, within the meaning of the law, has no legal entity apart from its membership, and is therefore not capable of suing or being sued in this action.

4. That the complaint shows upon its face that the plaintiffs named therein have no such community of interest in the money sued for as to entitle them to sue jointly; and that there is a misjoinder of parties plaintiffs.

5. That the complaint shows upon its face that the plaintiffs named therein have no joint interest in the money sued for; that their interests are separate, several and distinct, and that there is a misjoinder of causes of action.

6. That the complaint does not charge any contract, combination or conspiracy in restraint of interstate trade and commerce, within the meaning of the Sherman Anti-Trust Laws.

7. That the complaint does not show upon its face that the defendant has monopolized, or is about to monopolize, any part of plaintiffs' trade or commerce, within the meaning of the Sherman Anti-Trust law.

As To Second Count.

The said defendants demur to the second count for the following reasons:

1. The court has no jurisdiction of the person of either of the defendants named, or of the subject matter of the action, for the reason that each the said defendants is a voluntary, unincorporated association, a labor union, not or-
325 ganized for profit, not engaged in any business whatever, within the meaning of the law, and there is no diversity of citizenship as between the plaintiffs and defendants; that the said defendants are not capable of suing or being sued.

2. That the complaint shows upon its face that the plaintiffs named therein have no community of interest in the

money sued for, and that therefore there is a misjoinder of parties plaintiff, and of causes of action.

Wherefore the defendants severally pray that this demurrer be sustained, etc.

HENRY WARRUM
COVINGTON & GRANT
For Defendants.

---

326 (Demurrer of P. R. Stewart et al., to Third Amended Complaint.)

Filed in U. S. District Court March 17, 1917.

Come the defendants, P. R. Stewart, Wm. McLachlin, Jess Edwards, Charley Farley, Joe Overman, O. A. Brooke, Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charley Hendrix, Jim Lee, George Burnett, Pink Dunn, Pete McMullen, John Mastell, James Slankard, M. B. Appleby, Bruce Jordan, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Wm. Rodden, Joe Kerbellas, Jo Lanier, Charles Blackburn, Ed Kehee, Albert Hunter, Rich Handlin, Scott Adkins, Frank Petty, Claude Lichford, John Lichford, Otto Altman, Carey Crumpton, Wm. Price, Pete McMullen, Jr., John Murray, Sam Wooten, Marion Hulsey, Maje Hulsey, Tom Watson, Derwood Warren, Harry Birkett, Bud Williams, Brock Smith, Willis Congo, Leslie Congo, Bud Congo, Charles McCowen, J. W. Howard, John T. W. Davis, Edward Cunningham, Tom King, John P. White, Jake Thompson, Jim McNamara, Whit Miller, Joe Coneoda, B. Trout and Joe Assola, who severally and separately demur to both counts in plaintiffs' third amended complaint, filed February 27, 1917, and they demur for the following reasons:

As To First Count.

1. The court has no jurisdiction of the subject matter of this action, or of the person of the defendant, it appearing upon the face of the complaint that the complainant was not engaged in interstate commerce at the time of the alleged acts causing the damages sued for, within the meaning of the Act of Congress commonly known as the Sherman
327 Law, upon which this cause of action is based.

2. The complaint fails to disclose that this court has any jurisdiction of the cause of action therein set forth for the reason that the acts of the defendants complained of were not an interference with interstate commerce, or a vio-

lation of the Federal statute upon which the complaint is predicated.

3. That the complaint does not charge any contract, combination or conspiracy in restraint of interstate trade or commerce, within the meaning of the Sherman Anti-Trust law.

4. That the complaint does not state fact sufficient to constitute a cause of action.

As To Second Count.

1. The court has no jurisdiction of either of these named defendants, or of the subject matter of the action, it appearing upon the face of the complaint that the complainant was not engaged in interstate commerce at the time of the alleged acts causing the damages sued for, within the meaning of the Sherman Anti-Trust law.

2. The complaint fails to disclose that this court has any jurisdiction of the cause of action therein set forth for the reason that the acts of the defendants complained of were not an interference with interstate commerce, or a violation of a Federal statute, and it not appearing that there is a diversity of citizenship as between plaintiffs and defendants.

3. That the complaint does not state facts sufficient to constitute a cause of action.

HENRY WARRUM
COVINGTON & GRANT
For Defendants.

---

328 (Record Entry, March 17, 1917, of the filing of Separate Demurrers of United Mine Workers of America, et al., and P. R. Stewart, et al., to Third Amended Complaint.)

Before Judge Youmans.

This day come the defendants United Mine Workers of America, Local Unions Number 340, 560, 1130, 1526, 1530, 1565, 1810, 1814, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2494, 2766, 2769, 2770, 2772, 2841 and 2880, by Messrs. Covington & Grant, their attorneys, and file demurrer to the third amended complaint in the above entitled cause.

Also come defendants P. R. Stewart, Wm. McLachlin, Jess Edwards, Charley Farley, Joe Overman, O. A. Brooke, Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charlie Hendrix, Jim Lee, George Burnett, Pink Dunn, Pete McMullen, John Mastell, James Slankard, M. B. Appleby, Bruce Jor-

dan, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Wm. Rodden, Joe Kerbellas, Jo Lanier, Charles Blackburn, Ed Kehee, Albert Hunter, Rich Handlin, Scott Adkins, Frank Petty, Claude Lichford, John Lichford, Otto Altman, Carey Crumpton, Wm. Price, Pete McMullen, Jr., John Murray, Sam Wooten, Marion Hulsey, Maje Hulsey, Tom Watson, Derwood Warren, Harry Birkett, Bud Williams, Brock Smith, Willis Congo, Leslie Congo, Bud Congo, Charles McCowen, J. W. Howard, John T. W. Davis, Edward Cunningham, Tom King, John P. White, Jake Thompson, Jim McNamara, Whit Miller, Joe Coneoda, B. Trout and Joe Assola, by Messrs. Covington & Grant, their attorneys, and file demurrer to the third amended complaint in the above entitled cause.

---

329 (Motion of District, No. 21, of the United Mine Workers of America, to quash return of service of summons.)

Filed in U. S. District Court, April 6, 1917.

Comes the United Mine Workers of America, District No. 21, and entering its appearance for the purpose of objecting to the jurisdiction of this court over it, and to the return of service upon it, but for no other purpose, moves the court to quash the return of B. A. Enloe, United States Marshal for the Western District of Oklamoha, for the following reasons:

(1) That the defendant is a voluntary, unincorporated association, being a labor union, not organized for profit and not engaged in business; that it is not a legal entity, and has no entity apart from its membership; that the said John Wilkinson is not an agent for service and there is no authority of law for serving a summons upon him as agent of said association and the members thereof so as to bind the association or them.

(2) That there is no valid service of summons upon the said association, and it can not be served with summons.

Wherefore this named defendant prays that the return of service be quashed; that the court take no jurisdiction over it, and that the cause be dismissed as to it.

HENRY WARRUM
COVINGTON & GRANT
Attorneys for District No. 21
United Mine Workers of
America.

---

330 (Record Entry, April 6, 1917, of the filing of motion of District No. 21, of the United Mine Workers of America, to quash return of service on summons.)

Before Judge Youmans.

This day comes United Mine Workers of America, District No. 21, by Messrs. Covington & Grant, its attorneys, appearing specially for the purpose, and by leave of court files motion to quash return of service in the above entitled cause.

---

331 Motion For Judgment By Default Against The United Mine Workers Of America District Number Twenty-One.

Filed in U. S. District Court May 2, 1917.

Come the plaintiffs and move the court herein for a judgment by default for the amount claimed in the complaint against the United Mine Workers of America District Twenty-One, and for grounds thereof the plaintiffs state as follows:

1.

The United Mine Workers of America, District 21, have not filed any demurrer or other motion to prevent a judgment being taken by default against the said United Mine Workers of America District 21. Each of the other defendants have filed a demurrer or motion but said United Mine Workers of America District 21 have neglected and failed to file herein a motion since this cause was remanded to this court by the Circuit Court of Appeals, except as hereinafter shown.

2.

The original suit herein was brought against the United Mine Workers of America including District 21, and service was had upon the United Mine Workers of America District 21, as is shown by the records herein by serving the President of said District 21 and the Secretary and the Board member as well as other officers of said District 21.

3.

The said District 21 has by various acts herein entered its appearance to this cause both to the original complaint and to several of the amended complaints.

4.

332 While this cause was pending in the Circuit Court of Appeals the said District 21 of the United Mine Workers of America appeared in the Circuit Court of Appeals, on April 26, 1916, and filed in said Circuit Court of Appeals in this cause an appearance herein, which appearance was in the nature of a motion to dismiss the appeal and writ of error, and which said motion went to the merits of the claimed cause of action against said District 21.

5.

The said District 21 has repeatedly appeared in this court in this cause, and has demurred and filed motions directed and addressed to the merits of this cause, said District 21 appearing through the United Mine Workers of America. In all of the pleadings herein the United Mine Workers of America as a body and as an organization appeared and demurred to the various complaints herein. It is alleged and shown in the complaint that District 21 is a part of the United Mine Workers of America, and therefore the appearance by the United Mine Workers of America is an appearance of District 21 of the United Mine Workers of America.

6.

In the last demurrers filed herein which are directed to the last amended complaint said District 21, as such, however, files no demurrer and files no motion, and hence said district except as it may appear through said United Mine Workers of America has not filed any demurrer or other pleading in opposition to the cause of action set forth in the amended complaint herein.

Wherefore premises considered the plaintiffs pray an order of the court for a judgment by default against said United Mine Workers of America District Twenty-One.

ROGER B. HULL
HENRY S. DRINKER JR.
JAMES B. McDONOUGH
Counsel for Plaintiffs.

333 (Motion to quash service of summons on District No. 21, and motion for Judgment by default against District, No. 21, withdrawn; Order, May 2, 1917, of submission of motion of United Mine Workers of America et al., to strike out certain parts of Third Amended Complaint, etc.)

Before Judge Youmans.

This day come the plaintiffs by J. B. McDonough, their attorney, and come the defendants hereinafter referred to, by Messrs. Covington & Grant and Henry Warrum, their attorneys, and plaintiffs file motion for judgment by default against the United Mine Workers of America District Number 21.

Whereupon, the motion of United Mine Workers of America District No. 21 to quash return of service coming on to be heard the said motion is withdrawn by said defendant; and the motion of plaintiffs for judgment by default against the United Mine Workers of America District No. 21 coming on to be heard the said motion is withdrawn by the plaintiffs.

Whereupon, defendants United Mine Workers of America, Local Unions No. 340, 560, 1130, 1526, 1530, 1565, 1810, 1814, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2494, 2766, 2769, 2770, 2772, 2841, 2880, and District No. 21 United Mine Workers of America, file motion to strike from the complaint in the above entitled cause, which motion is argued by counsel and submitted.

Whereupon, defendants United Mine Workers of America, and District No. 21 United Mine Workers of America, and Local Unions No. 340, 560, 1130, 1526, 1530, 1565, 1810, 1814, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2494, 2766, 2769, 2770, 2772, 2841 and 2880, file motion to require plaintiffs to make their complaint more definite and certain in the above entitled cause, which motion is argued by counsel and submitted.

---

334 (Motion of United Mine Workers of America, et al., to strike out certain parts of Third Amended Complaint.)

Filed in U. S. District Court May 2, 1917.

Come now the United Mine Workers of America, Local Unions Number 340, 5601, 1130, 1526, 1530, 1565, 1810, 1814; 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2494, 2766, 2769, 2770,

2772, 2841, 2880 and District No. 21 United Mine Workers of America, joining together in this motion for convenience only, and each separately says that without waiving any rights under its motion to quash the summons and pretended service thereof heretofore filed and overruled, and without waiving any of its rights under its demurrer heretofore filed and overruled, but reserving all rights under said motion and demurrer and still insisting on the same and protesting against being required to proceed further in this case, moves the court to strike from plaintiffs third amended complaint the following matters and allegations and things:

1. It moves to strike from the complaint the name of and pretended cause of action of the Coronado Coal Company, for the reason that the said Coronado Coal Company is a corporation which claims to have been engaged in business as such, and its business is separate and distinct from the business of the other named plaintiffs; that it is not shown to have a community of interest with the other plaintiffs in the relief sought, therefore there is a misjoinder of parties plaintiffs and of causes of action.

2. It moves to strike from the said complaint the name of and the alleged cause of action of the Denman Coal Company
335 for the reason that the Denman Coal Company is a corporation which claims to have been engaged in business as such and its business is separate and distinct from the business of the other named plaintiffs; that it is not shown to have a community of interest with the other plaintiffs in the relief sought, therefore there is a misjoinder of parties plaintiffs and of causes of action.

3. It moves to strike from the complaint the name of and the alleged cause of action of the Mammoth Vein Coal Company for the reason that the Mammoth Vein Coal Company is a corporation which claims to have been engaged in business as such a corporation and its business is separate and distinct from the business of the other named plaintiffs; that it is not shown to have a community of interest with the other named plaintiffs in the relief sought; and therefore there is a misjoinder of parties plaintiffs and of causes of action.

4. It moves to strike from the complaint the name of and the alleged cause of action of the Bache-Denman Coal Company for the reason that the Bache-Denman Coal Company is a corporation which claims to have been engaged in business as such a corporation, and its business is separate and distinct from the business of the other named plaintiffs; that it is not shown to have a community of interest with the other

named plaintiffs in the relief sought, therefore there is a misjoinder of parties plaintiffs and of causes of action.

5. It moves to strike from the complaint the name and the alleged cause of action of the Hartford Coal Company for the reason that the Hartford Coal Company is a corporation which claims to have been engaged in business as such a corporation and its business is separate and distinct from the business of the other named plaintiffs; that it is not shown to have a community of interest with the other named
336 plaintiffs in the relief sought, and there is a misjoinder of parties plaintiffs and of causes of action.

6. It moves to strike from the complaint the name of and the alleged cause of action of the Sebastian County Coal Company for the reason that the Sebastian County Coal Company is a corporation which claims to have been engaged in business as such a corporation and its business is separate and distinct from the business of the other named plaintiffs; that it is not shown to have a community of interest with the other plaintiffs in the relief sought, and it is shown by the complaint that there is a misjoinder of parties plaintiffs and of causes of action.

7. It moves to strike from the complaint the name of and the alleged cause of action of the Mammoth Vein Coal Mining Company, for the reason that the Mammoth Vein Coal Mining Company is a corporation which claims to have been engaged in business as such a corporation and its business is separate and distinct from the business of the other named plaintiffs; that it is not shown to have a community of interest with the other plaintiffs in the relief sought, and because it is shown by the complaint that there is a misjoinder of parties plaintiffs and of causes of action.

8. It moves to strike from the complaint the name and the alleged cause of action of the Mammoth Vein Royalty Company, for the reason that the Mammoth Vein Royalty Company is a corporation which claims to have been engaged in business as such a corporation, and its business is separate and distinct from the busines of the other named plaintiffs; that it is not shown to have a community of interest with the other plaintiffs in the relief sought, and because it is shown by the complaint that there is a misjoinder of parties plaintiffs and of causes of action.

337 9. It moves to strike from the complaint the name and alleged cause of action of the Prairie Creek Coal Mining Company, for the reason that the Prairie Creek Coal Mining Company is a corporation which claims to have been en-

gaged in business as such corporation, and its business is separate and distinct from the business of the other named plaintiffs; that it is not shown to have a community of interest with the other named plaintiffs in the relief sought, and therefore there is a misjoinder of parties plaintiffs and of causes of action.

10. It moves to strike from the complaint the alleged cause of action and the names of Henry P. Hilliard and C. H. Finley, for the following reasons: The said Hilliard and Finley are receivers of the coal companies and corporations named as the plaintffs; that they are merely representatives of the various corporations, and that said corporations are not shown to have any community of interest in the relief sought and there is no joint interest of the said receivers, or community of interest shown in them by the complaint, that enables them to maintain the cause of action for the joint interest of the several corporations; that said receivers are attempting to mingle the estates of the separate corporations so as to recover for them in one action the separate damages claimed by each corporation, therefore there is a misjoinder of parties plaintiffs and of causes of action.

Wherefore the defendants move the court to sustain this motion and for all proper relief hereunder.

HENRY WARRUM,
COVINGTON & GRANT,
Attorneys for Defendants..

---

338 Motion to Require Plaintiffs to Make Complaint more Definite and Certain.

Filed in U. S. District Court May 2, 1917.

Come now the United Mine Workers of America, and District No. 21, United Mine Workers of America, and Local Unions number 340, 560, 1130, 1526, 1530, 1565, 1810, 1814, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2494, 2766, 2769, 2770, 2772, 2841, 2880, joining together in this motion for convenience only and each separately says that without waiving any rights under its motion to quash the summons and pretended service thereof heretofore filed and overruled, and without waiving any rights under its demurrer heretofore filed and overruled, but reserving all rights under said motion and demurrer, and still insisting upon the same, and protesting against being required to proceed further in this case, moves the court to require the plaintiffs to make their complaint more definite and certain in the following ways:

1. To name the customers and their locations for whom it is alleged that coal was produced, loaded and shipped; and to state more definite and certain whether the shipments were made by the plaintiffs to said cutsomers, or whether the shipments were made by the customers themselves.

2. By stating facts, instead of conclusions, showing the interest and the extent of the holdings and interest of said companies, and by either exhibiting the contracts or setting out the substance of the contracts or leases of the coal companies referred to in paragraph 4 of the complaint.

4. To make section 5 of the complaint more definite and certain as follows: By stating whether or not the
339 75% of the products of the mines alleged to find its way into interstate commerce was produced and shipped by the plaintiff [companys] or any of them on their own behalf; by stating specifically whether the coal was sold F. O. B. the cars at the mines by the plaintiff [companys], and if so to whom sold, and if the plaintiff [companys] or any of them sold and shipped the coal to customers outside of the State of Arkansas, by giving the names and addresses of said customers, and by exhibiting the contracts of all purchases of said customers.

5. By making section 7 of the complaint more definite and certain as follows: By stating specifically what provisions of the constitution of the United Mine Workers of America, or the by-laws thereof, authorized and directed the Districts and Local Unions thereof to act as its agents in the alleged conspiracy to carry out and destroy interstate commerce of plaintiffs as alleged.

6. By making section 12 of the complaint more definite and certain as follows: That plaintiff be required to state what restrictions and unreasonable regulations the United Mine Workers of America impose upon Union Mines whereby the productive costs and selling price of Union coal is enhanced, and to state in what particulars any such restrictions and regulations are unreasonable; and to state definitely the effect which such restrictions and regulations have upon the cost of production and selling price of Union coal.

7. That section 16 be made more definite and certain as follows: That plaintiffs be required to state specifically and describe fully the unlawful combination and conspiracy referred to in section 16 of its complaint, and to name the individuals, firms or corporations entering into said unlawful combination

and conspiracy who unlawfully restrain trade and com-
340 merce in coal in the different states of the United States.
And, further, that plaintiffs be required to state specifically the time and place where such unlawful combination and conspiracy was formed and entered into; and to state definitely the state or states in which said combination and conspiracy exists; and to state specifically the enhanced cost or selling price upon each ton of coal as a result of said alleged unlawful combination and conspiracy; and that plaintiffs also state fully and specifically in what way the United Mine Workers of America are engaged in interstate trade and commerce in coal, and in what way it is monopolizing said trade and commerce; and also to set out the provisions of the constitution of the United Mine Workers of America authorizing or empowering it to engage in interstate commerce or trade in coal, or to monopolize or attempt to monopolize such trade or commerce, or any part thereof; and also the provisions of the constitution of the United Mine Workers of America authorizing or directing it to enter into a combination and conspiracy as alleged in said section 16, to hamper, obstruct, monopolize and unlawfully restrain and destroy interstate trade and commerce in non-union coal.

8. That section 18 be made more definite and certain as follows: That plaintiffs be required to state specifically in what particular or particulars non-union mines are more efficient than union mines, and to state what methods are adopted by those engaged in the conduct and operation of such mines which render them more efficient than union mines; and, further, that they be required to show the difference in the cost of producing a ton of coal at a union mine and the cost of producing a ton of coal at a non-union mine.

9. That plaintiffs be required to make the complaint
341 more definite and certain as follows: That plaintiffs be required to set out in full copies of all agreements, and to state fully and in detail, the "understandings" between the proprietors of union mines and the unlawful combination as alleged in section 19 of plaintiffs complaint; that they be required to give the names and addresses of any and all "Proprietors" of union mines referred to in said section 19 of its said complaint.

10. That plaintiffs be required to make the complaint more definite and certain as follows: By showing and stating specifically what district or districts of the United Mine Workers of America were ordered to carry out and to coerce strikes of employees in unorganized mines, where such mines were lo-

cated, and the date of each of the strikes so ordered and coerced as alleged by them, and by and in what way such strikes interfered with, obstructed or restrained the interstate commerce of the plaintiffs or either of them, and how and in what manner they or either of them were damaged thereby.

11. That plaintiffs be required to make the complaint more definite and certain as follows: That they be required to show and state specifically what negotiations and understandings and the nature and extent thereof, were entered into by and between the United Mine Workers of America and "operators of Union Mines in the States of Ohio, Illinois, Indiana, and other states," and to set forth in detail any and all agreements with the operators of union mines in said states whereby it was understood and agreed that by strikes and unlawful means the United Mine Workers of America would prevent the production and shipment of bituminous coal by any non-union mine in any other state competing with the products of union mines of the states aforesaid; and to state fully and set
342 out in detail any and all said agreements and any and all understandings as alleged in section 21 of plaintiffs complaint whereby and wherein the said United Mine Workers of America were to use all means in its power to interfere with and prevent interstate commerce in bituminous coal by all unorganized mines, and by all competitive mines which should thereafter become non-union or unorganized; and to give the names and addresses of any person or persons, firms, partnerships or corporations entering into any such negotiations, understandings or agreements as alleged in said section 21; and to give the names and addresses of those acting for or assuming to act for the United Mine Workers, or any of its so-called branches; and, further, that the plaintiffs be required to show what injury and damage they or any of them sustained by reason of such negotiations, understandings and agreements, and the date of the injury to each; and, furthermore, that the plaintiffs be required to give the names and addresses of the "union operators" who are alleged to have entered into the illegal arrangements, contracts and understandings with the "United Mine Workers" to interfere with and destroy the interstate commerce of the plaintiffs in this case.

12. That plaintiffs be required to make its complaint more definite and certain as follows: That it be required to make section 22 of the complaint more definite and certain by stating specially in what year the United Mine Workers of America and those working in conjunction with them engaged in the general campaign and crusade as alleged in the first clause of section 22 of the complaint, and to name the

party or parties, firms, partnerships or corporations who acted in conjunction with the United Mine Workers of
343 America in carrying on said campaign and crusade, and to give the addresses of said persons, firms, partnerships or corporations, and to name the party or parties acting for or assuming to act for the United Mine Workers of America in carrying on the alleged campaign and crusade in the State of Pennsylvania, as alleged in said clause of said section; and to state fully and specifically the damage and extent thereof suffered by the plaintiffs or either of them by reason of any such campaign or crusade as alleged in said clause of said section; and to give the names and locations of the mines in the said State of Pennsylvania against which the alleged campaign and crusade was carried on, as set forth in said section 22; that they be required to show who acted for or assumed to act for and on behalf of the United Mine Workers of America in the year 1911, and the names and addresses of those acting in conjunction with them, in carrying out the alleged unlawful design against non-union mines in Westmoreland and Irwin Districts in the State of Pennsylvania, and to name the mines and locations thereof in each of said districts; and to state specifically what injury and damage plaintiffs or either of them suffered by reason of said alleged unlawful design being carried out against said Districts as alleged in the second clause of said section 22; that they be required to show who acted for and in behalf of, or assumed to act for and in behalf of the United Mine Workers of America in the year 1913 in entering into the general campaign and crusade against non-union mines in the State of Colorado, and who entered into and agreed to and did order a strike, of the employees of various competing mines of said state, and where such competing mines are located, and the names of the persons, partnership, firm or corporations engaged in the conduct and operation of each of the alleged competing mines, and how and to what
344 extent the plaintiffs or either of them were damaged by reason of the alleged unlawful acts as set forth in clause three of said section 22.

That plaintiffs be required to show and state definitely who acted for and on behalf of or who assumed to act for and on behalf of the United Mine Workers of America, and give the names and addresses of those acting in conjunction with the United Mine Workers of America to engage in the general campaign and crusade to destroy interstate commerce, trade and business in non-union mines in West Virginia, and to give the location and names of the persons or persons part-

nerships, firms or corporations engaged in the conduct and operation of said mines, and to give the dates on which the United Mine Workers of America and those acting in conjunction with them carried on the alleged unlawful campaign against said mines of West Virginia.

That they also be required to give the location of the mines in West Virginia, Pennsylvania, Colorado, and other states, and the names and addresses of the person or persons, partnerships, firms, or corporations conducting and operating same; also the dates on which said alleged acts were carried out by the alleged illegal combination, as set forth in clause 4 of said section 22; and how and in what way, and to what extent, the plaintiffs or either of them were damaged by reason of said alleged unlawful acts.

13. That plaintiffs be required to make section 23 of the complaint more definite and certain as follows: By giving the names and addresses of any and all persons and corporations financially interested in the plaintiff Coronado Coal Company, and the extent of the financial interest of each and every person and corporation therein, as alleged and set forth in said section 23; that they also be re-
345 quired to set out in full the terms of the written contract alleged to be described in section 4 of their said complaint.

14. That plaintiffs be required to make section 24 of their complaint more definite and certain as follows: By giving the names and addresses of the dealers with whom they or either of them had made preparation to do a large and profitable business in the year 1914, and to set out any contract or contracts that they or either of them had with said dealers, and to state specifically which of the plaintiff companes had actually commenced and were engaged in carrying on interstate trade and commerce in the year 1914, at the time they allege the defendants undertook to destroy their business; also to state the names of the plaintiffs who were preparing to commence and re-enter interstate trade and business at the time of the alleged interference in the year 1914, as set forth in section 24 of said complaint.

15. That each plaintiff be required to itemize and state in detail any and all damages it has sustained.

The defendants above named state that they are not in possession of the information asked in this motion, and that they do not know where to obtain such information, except from the plaintiffs who, from the allegations in the com-

plaint, appear to know the facts and to have the information; that the matters called for in this motion are material and the defendants can not answer or prepare for trial without the information requested.

The said defendants further state that they are voluntary unincorporated associations, or labor unions, as is shown by the complaint; that they are governed by a constitution and by-laws which limit the powers and duties of the of-
346 ficers and representatives of each of said associations; that during the period of time covered, while the alleged wrongful acts were happening, the said associations had many hundreds of officers and representatives in the territory named, but none of whom had authority to commit the alleged wrongs; and none of whom had authority to enter into the contracts, understandings or agreements with the operators of mines, as alleged in the complaint, or with anyone else not named in the complaint; that it is impossible for said associations, or either of them, to prepare to meet the allegations of the complaint in its present indefinite form, and that neither of them can prepare its defense or make its answer until it has been given the information called for in this motion.

Wherefore the above named defendants pray the court to sustain this motion and for all relief hereunder.

HENRY WARRUM
COVINGTON & GRANT
Attorneys for Defendants.

---

347 (Order, May 10, 1917, overruling Motion of United Mine Workers of America, et. al., to strike out certain parts of Third Amended Complaint and Exceptions thereto.)

Before Judge Youmans.

The motion to strike of defendants United Mine Workers of America, Local Unions Nos. 340, 560, 1130, 1526, 1530, 1565, 1810, 1814, 1942, 1912, 1934, 2027, 2053, 2110, 2160, 2494, 2766, 2769, 2770, 2772, 2841, 2880, and District No. 21 United Mine Workers of America, heretofore argued and submitted, having been duly considered, the court being now well and sufficiently advised in the premises doth overrule said motion. To the action of the court in overruling said motion and each separate paragraph thereof each of said defendants duly excepted at the time.

---

348 (Order, May 10, 1917, sustaining in part and overruling in part Defendant's Motion to require Plaintiffs to make complaint more definite and certain.)

Before Judge Youmans.

The motion of the defendants to require the plaintiffs to make their complaint more definite and certain having heretofore been submitted on the second day of May, 1917, and the court being now well and sufficiently advised in the premises, doth sustain paragraph 6 of said motion in that the plaintiffs are required to state what the restrictions and unreasonable regulations are, as alleged in paragraph 12 of their complaint, that enhanced the cost of production and selling price of union coal.

That paragraph 11 of said motion is also sustained to the extent that plaintiffs are required to state in paragraph 21 of their complaint in what year, or years, the said United Mine Workers of America entered into negotiations, understandings and agreements with operators of union mines in the States of Illinois, Ohio, Indiana and other states, and they are required to state who the operators were with whom such negotiations, understandings and agreements were entered into.

That said motion is in all other respects overruled.

To the action of the court in overruling the remaining paragraphs and parts of paragraphs of the said motion, and each separate paragraph and part thereof, each of said defendants duly excepted at the time.

---

349 Amendments to Paragraphs Twelve and Twenty-one of the Complaint.

Filed in U. S. District Court May 18, 1917.

Come the plaintiffs herein and in response to the order of the court requiring a more definite and certain statement of the matters set forth in paragraph twelve of the amended complaint allege as follows, said palintiffs asking that the allegations below be taken in place of and in lieu of section twelve of the complaint and that said section twelve as now amended and as set out below be taken and considered as a part of said amended complaint:

12. That owing to the restrictions and unreasonable regulations which the United Mine Workers of America imposes

on all Union or organized mines, said mines are conducted wastefully and inefficiently and the cost of production and the selling price of Union coal is thereby unreasonably and unnecessarily enhanced and can not successfully compete with the products of Non-union mines throughout the course of Interstate trade and commerce, and it is because of this fact and to protect said union mines against said Non-union competition in coal of the lower selling price that the United Mine Workers of America and those acting in conjunction with them, have divided all mines in the United States into two classes to be designated respectively as Union mines or Non-union mines in order that they may or more readily and effectively prevent and restrain all Interstate trade and competition in the products of Non-union mines.

That plaintiffs further allege that the unreasonable restrictions and unreasonable regulations referred to
350 above are as follows:

In every locality in which the United Mine Workers have succeeded in obtaining union recognition and enforcing the closed shop, its so-called contract with the union operators has contained and contains many clauses and provisions unreasonably restricting the employer in the operation of the property. Such contracts are all in the possession of and known by the defendants in this case.

The principal restrictive provision and regulation imposed by the Union is the essential one, known as the "closed shop", hereafter and heretofore described, the result of which is to prevent the employer from availing himself of the services of many valuable workmen and in producing a lack of discipline among the men actually employed, disastrous to the efficient organization of the business. A further direct result of the closed shop system is that the operating heads of the business are continuously compelled to devote a large portion of their time and energy to negotiating contracts and endeavoring to settle disputes arising thereunder, and to conferences over disputes with Union officials, who have no other business or function than to raise and discuss such questions.

The closed shop system under contract with the Union also results in practically precluding the operator from taking advantage of any improved methods of mining intended to reduce cost, such changes in mining methods being treated by Union officials as a departure from the Union contract of as not provided for thereby, with the result that no such

change can be adopted without negotiating a new contract with the Union requiring time, trouble and conces-
351 sions which in many or most cases offset the economy to be produced by the proposed change of operation.

Other provisions which may be cited merely as examples of restriction imposed by the Union throughout the country, and which vary in the different districts are:

Provisions limiting the number of men to be employed in a working place; provisions prohibiting a given class of employees from doing any work except the specific and restricted employment provided for that class; provisions requiring the employment of unnecessary men; provisions requiring an ambitious employee from doing more than a given amount of work in a day or in an hour, the purpose and result of which is to reduce the efficiency of all employees to that of the least efficient, countenanced by the Union; and innumberable other provisions both in the written contracts between the Union and Union operators and implied there from or so construed by the Union in their interpretations of such contracts and enforced by strikes and coercion, the main purpose and substance of all such regulations and restrictions being to prevent the operator from systematizing and ordering its operations and business in an efficient and economic manner and without being subject to the continual interference and dictation by union officials as to how and when its mines should be conducted and operated.

The plaintiffs further allege that it is impossible to state and enumerate in detail and completely all the restrictions and unreasonable regulations which the United Mine Workers and the other defendants herein have imposed upon the union mines throughout the localities in which their
352 activities have been manifest.

The plaintiffs allege that all of said restrictions and unreasonable regulations are similar to those above set forth and have for their object and purpose the complete domination of the labor element in the coal industry in the United States.

Amendment To Paragraph Twenty-One Of The Complaint.

Come the plaintiffs and in obedience to the requirement of the court to make paragraph 21 of the complaint herein more definite and certain and ask leave of the court to substitute for said paragraph 21 the following:

21. That in furtherance of the combination and conspiracy to restrain Interstate trade and commerce in bituminous coal and to prevent any Non-union coal from entering into Interstate trade and commerce, the United Mine Workers of America and its district branches have from time to time since 1898 entered into negotiations, understandings and agreements with the operators of Union Mines in the States of Ohio, Illnois, and Indiana and other states, wherein and whereby it was understood and agreed that in consideration of said operators agreeing to continuing to operate Union mines, the said United Mine Workers of America, the defendants and those working in conjunction with them in said unlawful scheme and purpose, would be strikes and the usual unlawful means which invariably accompany all strikes conducted by the United Mine Workers or any of its branches, prevent the production and shipment of bituminous coal by all so-called Non-union and unorganized mines in other states whose products come into Interstate competition with
353 the products of said Union mines through the course of Interstate trade and commerce, and that said agreement and understanding required said United Mine Workers and its said branches to use all means in its power to interfere with and prevent Interstate commerce in bituminous coal by all unorganized mines and by all competitive mines which should thereafter become non-union or unorganized and that the combination and conspiracy herein described to interfere with and destroy the business of the mines for which plaintiffs Finley and Hilliard are acting as Receivers, and all acts in furtherance thereof hereinafter described were done in pursuance of said illegal arrangement, contracts, and understandings between the said United Mine Workers and said Union operators to destroy and prevent Interstate trade and commerce in bituminous coal from unorganized fields by destroying or interfering with the facilities of said unorganized mines for the production and shipment thereof.

The plaintiffs specifically allege that the years in which the combinations and conspiracies were entered into as above alleged were in the year 1898 and each year thereafter down to and including the year 1916.

Further answering the plaintiffs state that in the States of Illinois, Ohio, Indiana and other states where the United Mine Workers of America absolutely control the labor situation the said agreements, conspiracies and understandings were had between said United Mine Workers of America, and each and every operator operating in said states with union labor. These complainants do not know the names of the oper-

ators in the state of Illinois, Ohio, Indiana and other states
but allege specifically that under the contracts and un-
354 der the understandings and agreements based upon the
contracts between each and every operator in said states that was operating with union labor there was a distinct and specific understanding and agreement which said agreement was as above set forth. The plaintiffs allege that the defendants well know the name of each and every operator in said states, and know the managing officer of said operators and have had dealings with them and they are posted with full and complete knowledge as to all of the agreements, understandings and conspiracies which have been so entered into and they know the names of every operator in said states, and are fully informed as to the nature of said conspiracies, understandings and agreements.

The plaintiffs further allege that under an agreement between said union operators and the United Mine Workers of America, known as the Chicago agreement of 1898, said agreement being between the United Mine Workers of America on the one hand and the operators of the States of Illinois, Indiana, Ohio and western Pennsylvania on the other hand, expressly entered into an agreement whereby the parties to said agreement conspired and agreed that the United Mine Workers of America would, as heretofore alleged, control the union operators as against the non-union operators. The said agrement is well known to the defendants herein, and has been continued from 1898 down to the present time between the said United Mine Workers of America and every union operator and the name and address of each and every union operator is well known to the defendants herein, and is not known to the plaintiffs herein. In said Chicago agreement between the United Mine Workers of
America and said operators above described, which
355 said agreement is in possession of the defendants
herein and is not in the possession of the plaintiffs herein and is well known to the defendants herein, and which said agreement has been continued between the United Mine Workers of America and said operators from that date to this there were agreements and clauses expressly providing as above alleged. The said agreement and clauses which are well known to the defendants were interpreted by both the United Mine Workers of America and the Union operators as an obligation upon the union miners, requiring and obligating both sides to work in harmony for the benefit of the union operators and the union miners and for the purpose of excluding from interstate commerce the product of non-union labor.

Premises considered the plaintiffs pray that the above and foregoing be taken as sections 12 and 21 of said complaint, and further pray for judgment as prayed in said original complaint.

ROGER B. HULL
HENRY S. DRINKER JR.
JAMES B. McDONOUGH
Attorneys for Plaintiffs.

---

356 (Record Entry, May 18, 1917, of the filing of Amendments to Paragraphs 12 and 21 of the Amended Complaint.)

Before Judge Youmans.

This day come the plaintiffs by James B. McDonough, their attorney, and file amendment to paragraphs 12 and 21 of the amended complaint in the above entitled cause.

---

357 Motion To Make Complaint And Amendment Thereto More Definite And Certain.

Filed in U. S. District Court May 24, 1917.

Come now the United Mine Workers of America, United Mine Workers of America, District No. 21, Local Unions numbers 340, 560, 1130, 1526, 1530, 1565, 1810, 1814, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2494, 2766, 2769, 2770, 2772, 2841, 2880, joining together in this motion for convenience only, and each named defendant separately says that without waiving any rights under its motion to quash the summons and the pretended service of the same, heretofore filed and overruled, and without waiving any rights under its demurrers heretofore filed and overruled, and still insisting upon said motions and demurrers, and still protesting against the court taking jurisdiction of this case or the defendants, or either of them, moves the court to require each of the plaintiffs to make its complaint styled the "Third Amended Complaint", and the amended to sections 12 and 21 thereof, more definite and certain in the following particulars:

(1) That paragraph 4 of the said complaint be amended so as to state facts, and not conclusions, showing the interest which each plaintiff has in the holdings of the other plaintiffs; and the interest each company named as plaintiffs has in the contracts or leases of the coal companies referred to in paragraph 4.

(2) That section 12 of said amended complaint, and the amendment thereto, be made more definite and certain by stating facts, and not conclusions and arguments, showing what restrictions and unreasonable regulations the United Mine Workers of America impose upon Union Mines
358 whereby the productive costs and selling price of Union coal is enhanced, and in what particulars any such restrictions and regulations are unreasonable.

(3) That section 21 of said amended complaint, and the amendment thereto, be made more definite and certain by showing and stating specifically what negotiations and understandings and the nature and extent thereof were entered into by and between the United Mine Workers of America and the operators of Union Mines in the State of Ohio, Illinois, Indiana, and other states, and to set forth in detail any and all agreements with the operators of Union Mines in said states whereby it was understood and agreed that by strikes and unlawful means the United Mine Workers of America would prevent the production and shipment of bituminous coal by any non-union mine in any other state competing with the products of union mines of the states aforesaid, named and unnamed; and to state fully and set out in detail any and all said agreements and any and all understandings as alleged in section 21 of plaintiff's complaint, and the amendment thereto, whereby and wherein the said Union Mine Workers of America were to use all means in its power to interfere with and prevent interstate commerce in bituminous coal by all unorganized mines, and by all competitive mines which should thereafter become non-union or unorganized mines; and to give the names and addresses of all persons, firms, partnerships, or corporations entering into such negotiations, understandings or agreements as alleged in said section and amendment; and to give the names and addresses of those acting for or assuming to act for the United Mine Workers of America, or any of its so-called branches; by stating whether or not said contracts, agreements and understandings were in writing or orally made; by stating the names of the persons acting or
359 assuming to act for the operators referred to in said paragraph and amendment thereto; and that each plaintiff be further required to show what injury and damage it has suffered by reason of the negotations, understandings and agreements, and the date of the injury to each.

Each defendant further states that it has never been a party to any such contract, agreements, understanding, combination or conspiracy as the ones alleged and referred to

in the complaint, and amendments thereto; that it knows nothing of the alleged matters, and has no way of finding out the facts alleged therein; that no one has ever had authority from it or any of its socalled branches to make or either into any such contracts, agreements or understandings, combinations or conspiracies; that if any one has assumed to act for it he had no authority to do so, and that it can not properly prepare its defense or answer in this case without it has the names of the persons and other matters which its motion seeks to obtain from the plaintiffs; that the plaintiffs allege that such contracts, agreements, understandings, combinations and conspiracies are generally known throughout the country, and shows by its general allegations that it and its attorneys is in possession of the information which the court has ordered it to give to the defendants, but seeks to evade the court's order by giving a general allegation to the effect that the defendants have such information. These defendants state, each for itself, that it has made diligent search, and its attorneys have made diligent search, and every effort possible, to obtain the information necessary to enable it to state its defense in this case, but is unable to find any such contracts as the ones relied upon and referred to by the plaintiffs.

360 Wherefore it prays that this court compel the plaintiffs, and each of them, to make the complaint and amendment thereto more definite and certain as requested in this motion, and for all relief hereunder.

HENRY WARRUM
COVINGTON & GRANT
Attorneys for Defendants.

---

361 (Record Entry, May 24, 1917, of the filing of motion to make Complaint and amendments thereto more definite and certain.)

Before Judge Youmans.

This day come defendants United Mine Workers of America, United Mine Workers of America District No. 21, Local Unions Nos. 340, 560, 1130, 1526, 1530, 1565, 1810, 1814, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2494, 2766, 2769, 2770, 2772, 2841 and 2880, by Messrs. Covington & Grant, their attorneys, and file motion to require plaintiffs to make their complaint more definite and certain in the above entitled cause.

---

362 (Order, June 1, 1917, sustaining in part and overruling part, motion to make complaint and amendments thereto more definite and certain.)

Before Judge Youmans.

The motion of the defendants to require the plaintiffs to make their amendments to paragraphs 12 and 21 of the complaint more definite and certain, having heretofore been submitted to the court, and the court being now well and sufficiently advised doth sustain said motion to the extent that the plaintiffs be and they are hereby required to state in paragraph 21 the names of the operators who entered into contracts, understandings and agreements with the United Mine Workers of America, alleged by the plaintiffs in their complaint to have been entered into.

In all other respects said motion to make more definite and certain is overruled.

---

363 Amendment to Paragraph Twenty-one of the Complaint.

Filed in U. S. District Court June 20, 1917.

Come the plaintiffs and in obedience to the requirement of the court to make paragraph 21 of the complaint herein more definite and certain and ask leave of the court to substitute for said paragraph 21 the following:

21. That in furtherance of the combination and conspiracy to restrain interstate trade and commerce in bituminous coal and to prevent any non-union coal from entering into Interstate trade and commerce, the United Mine Workers of America and its District branches have from time to time since 1898 entered into negotiations, understandings and agreements with the operators of Union Mines in the States of Ohio, Illinois, and Indiana and other states, wherein and whereby it was understood and agreed that in consideration of said operators agreeing to or continuing to operate Union Mines, the said United Mine Workers of America, the defendants and those working in conjunction with them in said unlawful scheme and purpose, would be strikes and the usual unlawful means which invariably accompany all strikes conducted by the United Mine Workers or any of its branches, prevent, the production and shipment of bituminous coal by all so-called non-union and unorganized mines in other states whose products come into Interstate competition with the products of said union mines through the course of Interstate trade and commerce, and that said agreement and understanding required said United Mine

Workers and its said branches to use all means in its power to interfere with and prevent Interstate commerce in bituminous coal by all unorganized mines and by all competitive
364 mines which should thereafter become non-union or unorganized and that the combination and conspiracy herein described to interfere with and destroy the business of the mines for which plaintiffs, Finley and Hilliard, are acting as Receivers, and all acts in furtherance thereof hereinafter described were done in pursuance of said illegal arrangement, contracts, and understandings between the said United Mine Workers and said Union Operators to destroy and prevent Interstate trade and commerce in bituminous coal from unorganized fields by destroying or interfering with the facilities of said unorganized mines for the production and shipment thereof.

The plaintiffs specifically allege that the years in which the combination and conspiracies were entered into as above alleged were in the year 1898 and each year thereafter down to and including the year 1916.

Further answering the plaintiffs state that in the States of Illinois, Ohio, Indiana and other states where the United Mine Workers of America absolutely control the labor situation the said agreements, conspiracies and understandings were had between the said United Mine Workers of America, and each and every operator operating in said states with union labor. These complainants do not know the names of the operators in the States of Illinois, Ohio, Indiana and the other states, but allege specifically that under the contracts and under the understandings and agreements based upon the contracts between each and every operator in said states that was operating with union labor there was a distinct and specific understanding and agreement which said agreement was as above set forth. The plaintiffs allege that the defendants well know the name of each and every operator in said states, and
365 know the managing officer of said operators and have had dealings with them and they are posted with full and complete knowledge as to all of the agreements, understandings and conspiracies which have been so entered into and they know the names of every operator in said states, and are fully informed as to the nature of said conspiracies, understandings and agreements.

The plaintiffs further allege that under an agreement between said union operators and the United Mine Workers of America, known as the Chicago agreement of 1898, said agreement being between the United Mine Workers of America on

the one hand and the operators of the States of Illinois, Indiana, Ohio and western Pennsylvania on the other hand, expressly entered into an agreement whereby the parties to said agreement conspired and agreed that the United Mine Workers of America would, as heretofore alleged, control the union operators as against the non-union operators. The said agreement is well known to the defendants herein, and has been continued from 1898 down to the present time between the said United Mine Workers of America, and every union operator and the name and address of each and every union operator is well known to the defendants herein, and is now known to the plaintiffs herein. In said Chicago agreement between the United Mine Workers of America and said operators above described, which said agreement is in possession of the defendants herein and is not in the possession of the plaintiffs herein and is well known to the defendants herein, and which said agreement has been continued between the United Mine Workers of America and said operators from that date to this there were agreements and clauses expressly providing as
366 above alleged. The said agreement and clauses which are well known to the defendants were interpreted by both the United Mine Workers of America and the Union operators as an obligation upon the union miners, requiring and obligating both sides to work in harmony for the benefit of the union operators and the union miners and for the purpose of excluding from interstate commerce the product of non-union labor.

And in answer to the last motion of the defendants which was sustained by the court, requiring the names of the operators to be set out, the plaintiffs state that the names of said operators referred to in the year 1898 were as follows:

Pgh. Consol. Coal Co.,
Waverly C. & C. Co.,
Imperial Coal Co.,
Bridgeville Coal Co.,
Mansfield Coal and C. Co.,
National Coal Co.,

Keeling Coal Company,
McCue Coal Company,
Fidelity Coal Company,
Chartiers Blk. Coal Co.,
Eureka Coal Co.,
Blythe Coal Company,
Lick Run Mine,
Little Red Stone Co.,

The Ella Coal Co.,
Panhandle Coal Company,
Ridgeway Bishop Coal Co.,
Morgan, Moore & Baine Co.,
Sheppler Gas Coal Co.,
Pittsburg & Western C. & C. Co.,
Yough River Coal Co.,
W. L. Scott & Co.,
James W. Ellsworth & Co.,
Canonsburg Coal Co.,
J. H. Somers Fuel Company,
Lake Shore Gas Coal Co.,
M. A. Hanna & Company,
Webster Gas Coal Co.,

Bower Hill M. Co.,
Alex Black Coal Co.,

Ohio & Penna. Coal Co.,

Youghy Coal Company,

Port Royal Coal & Co. Co.,
367 Federal Coal Company,
D. M. Anderson,
O I C Mine,
Boyd Coal Company,
Boyd Coal Company,
Beadling Brothers,
Moon Run Coal Co.,
Cook & Son,
Essen Coal Co.,
Osborne, Saeger & Co.,

Equitable Coal Company,
Black Diamond Coal & Coking Co.,
The Hocking Valley Coal Co.,
W. P. Rend & Co.,
The Morris Coal Co.,
Courtright, Kistler & Co.,
The Somers Coal Co.,
C. L. Poston,
The Greendale Furnace Co.,
The Ray Bould Coal Co.,
The Lost Run Coal Co.,
Juniper Bros. & Lampman,
Northern Fuel Co.,
Stalter Coal Co.,
Northern Fuel Co.,
Northern Fuel Company,
The Luhrig Coal Co.,
The Luhrig Coal Co.,
Maple Hill Coal Co.,
368 Beaumont & Chauncey Coal Co.,
Xanesville Coal Co.,

Chapman Coal Co.,
Superior Coal Co.

Morgan Moore & Baine Co.,
Pittsburg & Wheeling Coal Company,
Ohio & Pennsylvania Coal Company,
For Receivers W. & L. E. Interests,
M. A. Hanna & Co.,

Wills Creek Coal Co.,

James W. Ellsworth & Co.,
Coshocton Coal Co.,
Capt. J. M. Drake,
Jas. Mullins, etc.,
J. M. Walter,
New Pittsburg Coal Co.,
The Yurney & Jones Co.,
The Turney & Jones Co.,
The Columbus & Hocking Coal & Iron Co.,
The Sunday Creek Coal Co.,
Jones Coal Company,

Hall Coal Company,
Emma Coal Company,
Buckeye Coal Company,
S. E. Evans & Co.,
Jones & Morgan,
Price Bros.,
Eclipse Coal Co.,

Hurd Coal Co.
Southwestern Coal Co.,
Wellston Coal Co.,
Superior Coal Co.,
Tom Corwin Mining Co.,
Coalton Coal Co.,
Western Indiana Coal Co.,
Hymera Coal Co.,
Jackson Hill C. & C. Co.,
Coal Bluff Mining Co.,

Cable & Co., Washington, Davis Co.,
Ehrman Coal Co.,
Island Coal Co.,

Tom Corwin Coal Co.,
Superior Coal Co.,
Ada Coal Co.,

Wellston Coal Co.,
Marsh Coal Co.,
Fluhart Coal & Mining Co.,
Ohio Coal Company,
Jackson Hill Coal Co.,
Emma Coal Co.,
Indiana Bituminous Coal Co.,
Otter Creek Coal Co.,
Linton Coal & Mining Co.,

New Pittsburg C. and C. Co.,
Zeller & McClelland,

Crawford Coal Co.,

Jackson Coal and Mining Co.,
McIntosh & Co.,
Eureka Block Coal Co.,
Chicago & Indiana Coal Co.,
Maule Coal Co.,
South Linton Coal Co.,
Buckeye Coal Co.,
Harder & Hafer,
Jos. Somers,
369 Hazel Creek Coal Co.,
Vigo County Coal Co.,
C. Erlich Coal Co.,
S. W. Little,

Auburn Coal Co.,
Acme Coal Company,
Assumption Coal & Mining Company,
Athens Mining Company,
Breese Coal Co.,
Black Diamond Coal Co.,
Big 4 Wilmington Coal Co.,

E. Hakes,
Barclay Coal Co.,
Big Muddy Coal Co.,
Blake Albert,

Calumet Coal Co.,
Torry Coal Co.,
Edwardsport Coal and Mining Co.,
Hancock & Conkle,
Summit Coal Co.,
Bruits Creek Coal Co.,
Brazil Block Coal Co.,
Grant Coal Co.,
Island Valley Coal Company,
Crown Coal & Tow Co.,
Chicago-Virden Coal Co.,
Chicago & Minonk Coal & Tile Works,
Carlinville Coal Co.,
Chicago & Kansas City Coal Co.,
Chgo., Wil. & Vermillion C. Co.,
Chatham Coal Co.,
Carbon Coal Co.,
Canton Union Coal Co.,
Cantrell Coal Co.,
Citizens Coal Mining Co.,
Chicago-Glenburn Coal Co.,
DuQuoin Union Coal Co.,
Donk Bros. Coal Co.,
Devlin Coal Co.,
Economy Coal & Mining Co.,
W. E. Foley,
Farmington Coal Co.,
Gardner-Wilmington Coal Co.,
Greenwood-Davis Coal Co.,
Greenview Coal Co.,
Glendale C. & M. Co.,
Himrod Coal Co.,

Hillsboro Coal Co.,
Howarth & Taylor Bros.,
Horns Coalery,
Illinois Central Coal & Salt Co.,
Junction Mining Co.,
Jupiter Mining Co.,
KelleyVille Coal Co.,
Lumaghi Coal Co.,

Consolidated Coal Co. of St. Louis, Mo.,
Crerar, Clinch & Co.,
Litchfield M. & P. Co.,
James Lawes,
Moweauqua Coal M. & M. Co.,
Madison Coal Co.,
Massey Mine,
Hugh Murray,
Muddy Valley M. & Mnfg. Co.
Missouri & Illinois Coal Co.,
Muren Coal & Ice Co.,
Montgomery Coal Co.,
Marquette Third Vein Coal Co.,
370 Pat Meehan,
Newsam Bros.,
Nilwood Carbon Coal Co.,
Odin Coal Co.,
O'Fallon Coal & Mining Company,
Oak Hill Coal Co.,
Oakland Coal Co.,
Ogden Bros.,
Oglesby Coal Co.,
O'Gara & King Mining Co.,
Perry County Coal Mine,
Pana Coal Co.,
Riverton Coal Co.,
Royster & Ziegler,
Raymond Mining Co.,
Star Coal Co.,
Spring Valley Coal Co.,
LaSalle County Carbon Coal Co.,
Lincoln Coal Company,
Sangamon Coal Co.,
Springfield Iron Co.,
Skellett Coal Co.,
Sunday Creek Coal Co.,
Sorento Pros. & Mining Co.,
Starnes Coal Mining Co.,
Spaulding Coal Co.,
Springfield C. M. & Tile Co.,
Springfield, Co-Operative Coal Co.,
Springside Coal Mining Co.,
Jos. Taylor,
Taylorville Coal Co.,
Trenton Coal Light & P. Co.,
Virden Coal Co.,
Henry Voge,
Westville Coal Co.,
T. J. Williams,
Willis Coal & Mining Co.,
Wolschlag Co-Operative Coal Co.,
Isaac Wantling,
Wabash Coal Co.,
C. J. White,
Wilmington Star Mining Co.,
Whitebreast Fuel Co.,
Walnut Hill Coal Co.,
Woodside Coal Co.,
West End Coal Co.,
Williamsville Coal Co.,
Wilmington Coal M. & Mfg. Co.

Further complaining these plaintiffs allege and state that these plaintiffs do not know whether the operators above named have continued in business down to the present time or down to the time of the commencement of this suit or not. The defendants, The United Mine Workers of America, including District No. 21 know and have full and complete information concerning each union operator in the states named and they well know the name of each one and the plaintiffs specifically

allege that each union operator in said states entered into the conspiracy as alleged and the names and addresses of each of said operators are well known to the defendants herein,
371 and have been known to the defendants all the time, and are now known to them.

Premises considered the plaintiffs pray that the above and foregoing be taken as section 21 of said complaint and further pray for a judgment as prayed in said original complaint.

ROGER B. HULL,
HENRY S. DRINKER, JR.
JAMES B. McDONOUGH,
Attorneys for Plaintiffs.

---

372 (Record Entry, June 20, 1917, of the filing of Amendment to Paragraph 21 of the Complaint.)

Before Judge Youmans.

This day come the plaintiffs by James B. McDonough, their attorney, and file amendment to paragraph twenty-one of the complaint in the above entitled cause.

---

373 Separate Answer of United Mine Workers of America.

Filed in U. S. District Court July 7, 1917.

Comes now the United Mine Workers of America, and without waiving any rights under its motion to quash the summons and service upon it heretofore filed, presented and overruled by the court, and still insisting and relying upon said motion, and here protesting against being required to plead in this case, for its separate answer to plaintiffs' complaint filed herein, says:

I.

It denies that the Hartford Coal Company, the Mammoth Vein Coal Company, the Mammoth Vein Coal Mining Company, the Coronado Coal Company and the Prairie Creek Coal Mining Company, or either or any of them, were at the time of the appointment of the Receiver, or for many years, or any time, prior thereto, operating coal companies or engaged in the production, loading and shipment of coal for interstate trade and commerce from coal lands located in Sebastion County, Arkansas, or elsewhere.

It denies that prior to the year 1914 and before the commencement of the difficulties referred to in plaintiffs' third

amended complaint, the Hartford Coal Company employed about 70 men, or that the Mammoth Vein Coal Company employed about 300 men, or that the Coronado Coal Company employed about 250 men, or that the Prairie Creek Coal Mining Company employed about 250 men, in connection with the production, loading and shipment of coal in or about their respective mines for interstate trade and commerce; denies that the value of the annual shipments and sale of coal by said mines respectively, were equal to or ex-
374 ceeded the following:

The Hartford Coal Company	$ 50,000;
The Mammoth Vein Coal Company	120,000;
The Coronado Coal Company	175,000;
The Prairie Creek Coal Mining Co.	120,000;

Denies that 75 per cent of the coal shipped by each or either of said mines was sold and shipped to customers outside of the State of Arkansas in the ordinary course of interstate trade and commerce, but alleges the truth to be that if said plaintiffs produced and loaded for shipment any coal at said mines the same was by them and each of them, sold f. o. b. the cars at the mines, and that none of said shipments were transported by said companies in interstate commerce, and denies that any of it formed any part of interstate commerce; denies that prior to April in the year 1914, the Mammoth Vein Coal Mining Company entered into a written contract with the Mammoth Vein Coal Company and the Prairie Creek Coal Mining Company or either of them wherein and whereby it agreed to operate and produce coal from mines of said Mammoth Vein Coal Company and the Prairie Creek Coal Mining Company, or either of them, for and in behalf of said companies; denies that the Mammoth Vein Coal Company and the Prairie Creek Coal Mining Company were continuing to sell and ship the coal so produced from their respective mines as they had previously done; denies that the Prairie Creek Coal Mining Company was selling and shipping, or was to continue selling and shipping coal mined by the Mammoth Vein Coal Mining Company from the mines formerly operated by the Prairie Creek Coal Mining Company; denies that the Mammoth Vein Coal Company was to continue to sell and ship coal produced by the Mammoth Vein Coal Mining Company from mines formerly operated by said Mammoth Vein Coal Company; denies that 75 per cent, or any other amount, of the output of each of said mines was produced, loaded and shipped by the plaintiffs, or either of them, for or to customers outside of the State of
375 Arkansas in the course of interstate trade and commerce; denies that the Denman Coal Company, the

Bache-Denman Coal Company, the Sebastian County Coal Company, the Mammoth Vein Coal Company, and the Mammoth Vein Royalty Company, or either or any of them, were financially interested in one or more of the operating companies either through contracts, the Lease of coal lands on which said operating companies were working, or through the ownership of all or any of the stock of said operating companies, as alleged in plaintiffs' complaint.

It denies that about 75 per cent or any other quantity of the shipments of said operating companies were made by common carriers in interstate trains to points outside of the State of Arkansas, including the States of Oklahoma, Kansas, Nebraska, Texas and Missouri; denies that any of plaintiffs' employees in the conduct of interstate trade and business of plaintiffs were engaged in placing cars of interstate carriers in convenient places on the side tracks of said carriers for loading for interstate shipment; denies that any of plaintiffs' employees were engaged in loading cars of common carriers on side tracks with coal for shipment to points outside of the state; denies that any of plaintiffs' employees were engaged in placing cars so loaded for points outside the State of Arkansas in proper places on the tracks of said carriers to be hauled by engines of carriers over the tracks of carriers, and attached to interstate freight trains for transportation to points outside the State of Arkansas; and further says that neither of the plaintiffs were engaged in the production, loading and shipment of coal in interstate commerce; denies that the ownership and operation of said mines, and the taking and producing of coal therefrom, was but one step in the interstate trade and business of said companies; denies that said ownership and operation of
376 said mines and the taking and producing of coal therefrom formed any part of interstate trade and commerce of the plaintiffs or any of them; denies that the plaintiffs, or either of them, were dependant for the profitable conduct of their business upon the trade which they, or either of them, secured from customers outside of the State of Arkansas; denies that the plaintiffs or either of them owned and operated said mines, or any mines whatever in the State of Arkansas for the purpose of carrying on interstate trade and business; denies that plaintiffs or either of them would not have purchased or attempted to purchase, or operated or attempted to operate said mines, except for the purpose of carrying on interstate trade and business; denies that one of the principal assets of said companies was their good will, trade and business with customers outside of the State of

Arkansas; and denies that said companies or either of them employed agents and salesmen in other states to protect, preserve, build up or increase interstate trade, business or good will.

It denies that the district branches of the United Mine Workers of America, or the local unions of the United Mine Workers of America, or either or any of them, are a part of the United Mine Workers of America, or agencies created by said United Mine Workers of America to carry out the purposes and objects of said United Mine Workers of America, or to act with and for it in carrying out the general combination and conspiracy in the restraint of interstate trade and commerce.

It admits that District No. 21 of the United Mine Workers of America is a district branch of the United Mine Workers of America, but denies that it has jurisdiction over all
377 or any of the union mines or miners in the States of Arkansas, Oklahoma, and Texas, or that it had such jurisdiction over said mines or miners, or any of them, at the time of the alleged commission of the alleged wrongful acts complained of in plaintiffs' third amended complaint. It admits that the defendant local unions named in the complaint are affiliated with said District 21 of the United Mine Workers of America, but denies that they or either of them, are subject to the laws of said District 21, as alleged in the complaint of plaintiff.

It admits that the local unions named in the caption to the complaint are unincorporated associations of the mine workers in the State of Arkansas, and further alleges that each of said local unions is a labor union not organized for profit, but for the mutual betterment of its members, and that it is not engaged in any business of any kind and has never been so engaged, and that neither of said local unions has legal entity apart from its membership. It admits that each of said local unions has a separate president and secretary, but denies that process may be served upon either president or secretary so as to bind the local union attempted to be brought into court, or to bring it into court independently of its membership, and avers the truth to be that neither the president nor secretary of any of the local unions named in the complaint has any authority either in law or by virtue of express or implied authority given him by the membership of the local union, to represent them, answer for them, or plead for them, or bind them in anywise in this action. It

denies that the members of each of said local unions are so numerous as to make it impracticable to make all of said members defendants.

378 It admits that John P. White is President of the United Mine Workers of America, but denies that because of the numerous members of said United Mine Workers of America it is impossible to make each one a party defendant to this cause; it denies that it is, or has been, represented in District 21 by P. R. Stewart, formerly President, or Wm. McLachlin, a member of the Executive Board of District 21, or President thereof, or Edward Cunningham as Vice President or President, or Tom King, as member of said Executive Board; admits that James Mullen was a member of the Executive Board of the United Mine Workers of America, but does not know whether he was such member at the time of the alleged commission of the alleged wrongful acts complained of in the complaint, and therefore denies the same; it says that the said James Mullen is dead and has been dead for a long time; admits that Frank Hays is Vice President of said United Mine Workers of America and that Wm. Green is the Secretary and Treasurer thereof; it does not know whether they were such officers at the time of the alleged commission of the alleged wrongful acts; denies that the said James Mullen was the agent of the United Mine Workers of America for the transaction of all business by said organization in the State of Arkansas during his life time, and alleges the truth to be that the said P. R. Stewart, Wm. McLachlin, Edward Cunningham, Tom King, James Mullen, Frank Hays and Wm. Green, had authority, either expressed or implied, from the United MineWorkers of America, or from the membership of more than [4000,000] men composing said United Mine Workers of America, to represent them in the commission of a tort, or to bind said United Mine Workers of America for any wrongful acts they may have committed, if they did commit any such wrongful acts,

379 or to represent the said United Mine Workers of America so that service of process upon them, or either of them, is service upon the said organization so as to bring it into court independently of its membership, or so as to bind the members composing the said organization; or to authorize a judgment against them or either of them in this action. It denies that they, or either of them, sufficiently represent the United Mine Workers of America for the purpose of this action, or that the service of process upon them, and the trial of the suit in which they are parties, will constitute proper representation of the United Mine Work-

ers of America. And it further avers the fact to be that it is an unincorporated labor union, not engaged in business for profit, or otherwise, but for the mutual betterment of its members and created for the objects and purposes set forth in its Constitution, which is hereinafter stated in this answer; that it has a membership of more than 400,000 persons of all nationalities, residing in the Republic of Mexico, the United States of America and the Dominion of Canada, who are engaged in the craft and occupation of digging coal as laborers; that said association has no entity apart from the members who compose it.

It denies that the United Mine Workers of America and the other defendants described in the complaint divides all or any of the coal mines in the several states of the United States, into two classes, one class being called "Union' or organized mines, and the other class called "Non-union" unorganized or open shop mines;" denies that the alleged former class are so called because they operate under an agreement with the United Mine Workers of America or one of its district branches to employ none but members of that union in or about the work of producing, loading and shipping coal and to comply with all the rules and regulations of the United Mine Workers of America and its district
380 branches having jurisdiction over the respective mines in accordance with their geographical location; it denies that there is an agreement between the United Mine Workers of America and the other defendants described in the complaint, to employ none but members of that union in or about the work of producing, loading and shipping coal, and to comply with all the rules and regulations of the United Mine Workers of America and its district branches having jurisdiction over the respective mines in accordance with their geographical location; it denies that the latter named group of mines are designated as non-union, unorganized or open shop because they refused to make an agreement with the defendants to employ only members of the United Mine Workers of America exclusively.

It denies that the United Mine Workers of America imposes any restrictions or unreasonable regulations upon all or any of the union or organized mines; it denies that said union or organized mines are conducted wastefully and inefficiently, or that the cost of production and selling price of coal is thereby unreasonably or unnecessarily enhanced; denies that coal produced at union mines cannot successfully compete with the products of non-union mines throughout the course of interstate trade and commerce; denies that the

United Mine Workers of America, and those alleged in the complaint to be acting in conjunction with them, or anyone else, have divided all mines in the United States into two classes to be designated respectively as "union mines" or "non-union mines" in order that they may more readily prevent and restrain all interstate trade and competition in the products of the non-union mines; denies that in every, or in any, locality in which the United Mine Workers have succeeded in obtaining union recognition and enforcing
381 the so-called closed shop, its so-called contract with the union operator, or any of them, has contained, and contains, clauses and provisions unreasonably restricting the employer in the operation of the property; denies that all or any such contracts are in the possession of, or known to the defendants in this action; denies that the United Mine Workers of America imposes upon operators who employ union miners a restrictive provision and regulation known as the "closed shop" the result of which is to prevent the employer from availing himself of the services of valuable workmen or in producing a lack of discipline among the men actually employed, either of which is disastrous to the efficient organization of the business. It further denies that as a result of the alleged "closed shop" system the operating heads of the business are continuously compelled to devote a large portion of their time and energy to negotiating contracts, endeavoring to settle disputes arising thereunder, and to conferences over disputes with union officials; denies that the union officials referred to in this action have no other business or function than to raise and discuss such questions; denies that the alleged "closed shop" system under the alleged contract with the union, results in practically precluding the operator from taking advantage of improved methods of mining intended to reduce cost; denies that such changes in mining methods are treated by union officials as a departure from the union and contract; denies that a change in the mining methods cannot be adopted without negotiating a new contract with the union requiring time, trouble and concessions which offset the economy to be produced by the proposed change of operation. It denies that said United Mine Workers of America imposes any unreasonable restrictions upon operators conducting mines
382 at which union men are employed, by way of limiting the number of men to be employed in a working-place or prohibiting a given class of employees from doing any work except the specific and restricted employment provided for that class, or requiring the employment of unnecessary men, or requiring an ambitious employee from doing more

than a given amount of work in a day or in an hour, with the purpose and result of reducing the efficiency of all employees to that of the least efficient; denies that there are any other restrictions placed by the United Mine Workers of America in their written contracts between the Union and union operators, or as implied and construed by the union in its interpretations of such contracts, or as enforced by strikes or coercion, which prevent the operator from sympathizing and ordering its operations and business in an efficient and economic manner without being subject to the continual interference and dictation by union officials as to how and when its mine should be conducted and operated; it denies that said United Mine Workers of America imposes any unreasonable restriction or regulations upon operators who employ union miners in the operations of their mines. It denies that it has for its object and purpose the complete domination of the labor element in the coal industry in the United States.

It denies that except for the anthracite coal mines in the State of Pennsylvania, practically the entire business of mining and shipping coal in the United States is done by what is known as bituminous mines located in the States of Washington, Wyoming, Utah, and Montana in the northwest, Illinois, Ohio, Indiana, and Michigan in the northern middle states, Iowa, Colorado, New Mexico, Kansas, Missouri, Oklahoma, Arkansas, Texas, Kentucky, Tennessee and Alabama,
383 in the middle and southern states, and Pennsylvania, Virginia, West Virginia and Maryland in the eastern states; denies that each and every one of the bituminous mines in the several states named is engaged in or subject and liable to competition in the course of interstate trade from the mines in one or more of the other states above named; denies that nearly every one of said mines is subject to competition of the mines of each and every one of the several states above named in reaching or attempting to reach different markets of the United States in various industrial sections in different states through the course of interstate trade made possible by transportation of common carriers from one state to another.

It denies that the mines which the plaintiffs claim to have been operating, and which they intend to operate, when in operation compete directly with the mines of Illinois, Kentucky, Alabama, New Mexico, Colorado, Kansas, Oklahoma, or other mines of Arkansas, for the markets of Louisiana, Texas, Oklahoma, Nebraska, Kansas, Missouri, Iowa, and Minnesota, or subject to the competition of said mines in en-

deavoring to reach the various markets of other states through the channels of interstate trade and commerce. It denies that the mines of Illinois sell coal through the course of interstate trade and commerce to markets in Louisiana, Texas, Missouri, Nebraska, Kansas, and other states; denies that the plaintiffs referred to in the complaint as operating companies, sold coal through the course of interstate trade and commerce to purchasers in said markets and states, and denies that they thereby entered into interstate competition with the said mines of Illinois, in said states and others, or are subject to and affected by the interstate competition of said mines and others in many other states; denies that except for the alleged unlawful interference of the defendants as set forth
384 in the complaint, each, or either, of said mines would have engaged in interstate competition with the said mines of other states in the year 1914.

It denies that all of the coal mines of Illinois, Ohio, Indiana, Wyoming, Michigan, Missouri, Iowa, Texas, Arkansas and Oklahama, are union; admits that a part of the bituminous mines of Pennsylvania, Kentucky and West Virginia are union; denies that said mines of Colorado, New Mexico, Alabama, Virginia and Tennessee are non-union or unorganized. It says that it does not know and has no sufficient information upon which to found a belief as to whether or not the annual output of bituminous coal in the United States is a little less than 5,000,000 tons, and therefore denies the same; denies that the State of Pennsylvania produces over one-third of the bituminous coal in the United States; denies that the States of Ohio, Illinois, Indiana produce over one-fifth of the bituminous coal in the United States; denies that the State of West Virginia produces about one-seventh of the bituminous coal in the United States; denies that at least 60 per cent of the entire production of bituminous coal in the aforesaid states is produced by so-called union or organized mines; denies that if the alleged attempt of the United Mine Workers and those alleged to be working in conjunction with them, are successful in carrying out their alleged plans to unionize all the bituminous coal mines of Pennsylvania, West Virginia, Virginia, and Colorado, that about 90 per cent of the bituminous coal produced in the United States, which enters into interstate trade and commerce, will be coal produced by so-called union mines; it denies that there is a conspiracy, lawful or unlawful, existing between the United Mine Workers of America, or anyone else, to unionize all of the bitumin-
385 ous coal mines of Pennsylvania, West Virginia and Colorado; it denies that it has made any attacks, in

either of the districts, upon non-union mines in furtherance of an unlawful conspiracy; or in an effort to monopolize interstate trade and commerce in coal in the United States; denies that it has attempted to monopolize the interstate trade in coal in the United States; and denies that it has created any such monopoly, and further avers the facts to be, that the said United Mine Workers of America is not engaged in interstate trade and commerce in coal, that its members throughout the Republic of Mexico, the United States and the Dominion of Canada, wherever they are engaged in digging coal, follow the craft or occupation of mining coal for coal operators, furnishing only labor for such employers at stipulated prices by the ton, or by the day, as the case may be; that said members collect from the operator for the coal which they dig and the services they render about said mines; that such wages and compensation are earned by the members of said labor union for themselves individually to support themselves and their families.

It denies that the United Mine Workers of America and the other defendants named in the complaint, or anyone else, now are or ever have been, engaged in an unlawful combination and conspiracy in unlawful restraint of trade and commerce in coal among the different states of the United States. Denies that by means of any such combination or conspiracy it is unlawfully attempting to monopolize or has attempted to monopolize, or is monopolizing, such trade and commerce; denies that it has in furtherance of any such combination and conspiracy, confederated, combined or conspired with anyone else to exclude or drive out of interstate trade and commerce, or to restrain or prevent interstate trade and commerce in any or all coal produced, loaded and shipped
386 by so-called non-union or unorganized mines; it denies that it has combined, conspired or confederated with anyone in an unlawful scheme to exclude or drive out of interstate trade and commerce, or to prevent interstate trade and commerce in coal produced, loaded and shipped by so-called non-union or un-organized mines, by hampering, preventing or interfering with the production, loading and shipment of coal for interstate commerce in any of the coal mining states by any so-called unorganized or non-union mines, so that it cannot become an object of commodity of interstate trade and commerce or enter into interstate competition with the products of so-called union or organized mines located in divers states; and it further says that if any such combination, conspiracy or confederation exists it knows nothing of it and is not a party thereto, and has never been a party thereto; and

it further says if any member or members, officer or officers of said United Mine Workers of America, are, or have ever been members of or parties to any such unlawful combination, confederation or conspiracy, they were not authorized by the said United Mine Workers of America to act for it, and such conduct is not an act, or acts, of said United Mine Workers of America, and said labor union is not bound thereby.

It denies that it is a party to an unlawful combination and conspiracy in restraint of interstate trade and commerce; denies that one of its objects is to monopolize the trade or occupation of mining coal for the members of the United Mine Workers of America, and thereby prevent the employment of non-union men in any part of the United States at the trade or craft of mining coal or to prevent the products of the labor of non-union mines from becoming objects or commodities of interstate trade and commerce; or to compel those em-
387 ployed in the occupation of mining coal in non-union mines to abandon the trade or vocation of coal mining or to become members of the United Mine Workers of America; denies that its object is to secure a monopoly and unification in control and management so far as labor is concerned, of all competing mines in all parts of the United States. It states the facts to be, that no person is excluded from membership in said labor union on account of race or color, but that every person engaged in mining coal and working around coal mines is eligible to membership in the United Mine Workers of America, and may become a member if he so desires.

It denies that it is a party to an illegal scheme, combination or conspiracy to suppress and destroy the business of non-union or unorganized mines whose products enter into interstate trade; denies that it is a party to any illegal scheme or conspiracy to prevent any mining company from engaging in the business of selling coal for interstate trade, as an unorganized mine, or to prevent any of the so-called union or organized mines from commencing operations as a non-union or unorganized mine, or to prevent by suppression, obstruction or destruction, the business of any of the independent and competing mines in the several states or in any of the states which are operating or many hereafter operate, on a non-union or unorganized basis, or to monopolize interstate trade and commerce for union coal produced under the domination of the United Mine Workers of America; and denies that it dominates the union coal or the production thereof at the mines employing union miners. It denies that it maintains the price of union coal in interstate commerce by protecting it

from interstate competition of coal mined by non-union mines, and further says that the said labor union does not fix the market price to be paid for coal, or maintain said price
388 when so fixed, but that said market price is fixed by coal operators and coal selling agents, and that the said organization and its members are not engaged in selling coal, either as mine operators, agents, or otherwise.

It denies that it is a party to an unlawful combination or conspiracy to dominate and control separate and competing mines in different states, which in the absence of such unlawful combination, would be engaged in interstate trade and commerce. Denies that it is a party to any combination to destroy or prevent interstate shipments of coal by all or any of the mines in any of the coal mining states, or to prevent any coal not produced by union mines from becoming an object of interstate commerce or entering into interstate competition with the products of so-called union mines. Denies that it is a party to any agreement or understanding between it and the proprietors of union mines to the effect that it, the said proprietors and others acting in conjunction with them, will unlawfully protect interstate trade and business of said union mines from the competition of unorganized mines by employing all the means available to organized labor to prevent the production, loading and shipment of coal for interstate trade and commerce by unorganized mines.

It denies that it has in furtherance of any such unlawful combination or conspiracy to unduly restrain interstate trade and commerce, or to exclude the products of unorganized mines and non-union miners from interstate trade and commerce, working through its district organization, or otherwise, ordered and coerced strikes of employes employed by un-organized mines in different states, and by violence, intimidation, mobs or riots, prevented the employment of any miners
389 in said mines for production, loading or shipment of coal for interstate commerce; or that it has by dynamite, arson or other unlawful means, destroyed the facilities of said unorganized mines for producing, loading and shipping coal for interstate commerce, or that it has hampered, [interfered] with, prevented or attempted to unduly enhance the cost of producing, loading and shipping coal by said unorganized mines for interstate commerce so that it would no longer be marketable as an article or commodity of interstate trade and commerce in competition with union coal. It further says that if such property has been destroyed or damaged, or injured, or the facilities for producing, loading and shipping of coal for interstate commerce, hampered, [inter-

fered] with or prevented, or the cost of producing, loading or shipping coal by said unorganized mines for interstate commerce has been unduly enhanced so that it would no longer be marketable as an article or commodity of interstate commerce in competition with union coal, the said United Mine Workers of America is not and was not, a party to said unlawful acts, but that whoever committed said acts were acting for themselves and not for the United Mine Workers of America, and said labor union is not bound by such acts. It denies that any of the alleged unlawful acts referred to in the complaint were done or carried out in furtherance of any combination or conspiracy to unduly and directly restrain interstate trade and commerce with the intent, purpose or effect, as set forth in the complaint, and denies that said United Mine Workers of America was a party to, or connected with, any such unlawful acts; and denies that any person had authority to act for said labor union in the commission of said unlawful acts; denies that it was a member of or a party to any combination or conspiracy or arrangement, having for its
390 purpose the inducing and forcing of persons and corporations formerly engaged in interstate trade as non-union mines to refrain therefrom until such times as they would carry on said business as union mines upon terms dictated by said combination and conspiracy.

It denies that in furtherance of any combination and conspiracy to restrain interstate trade and commerce in bituminous coal, or to prevent any non-union coal from entering into interstate trade and comerce, the United Mine Workers of America, its district branches, or either of any of them, have at any time since 1898, entered into negotiations, understandings and agreements, with the operators of union mines in the States of Ohio, Illinois and Indiana, or other states, wherein and whereby it was understood and agreed that in consideration of said operators agreeing to or continuing to operate union mines, the said United Mine Workers of America, or the other defendants named in the complaint, or anyone working in conjunction with them, would, by strikes, or any other unlawful means, prevent the production or shipment of bituminous coal by so-called non-union and unorganized mines whose products come into interstate competition with the products of union mines through the course of interstate trade and commerce. Denies that it was a party to any combination, conspiracy, agreement or understanding which required the said United Mine Workers of America and its said branches, either or any of them, to use all means in its power, or any means whatever, to prevent interstate com-

merce in bituminous coal by all un-organized mines, or by all competitive mines which should thereafter become non-union or unorganized; and denies that it has committed any acts in furtherance of such a combination and conspiracy to interfere with and destroy the business of the plaintiffs, as al-
391 leged in the complaint; it denies that any of the acts complained of in said complaint were the acts of the said United Mine Workers of America, done in pursuance of any illegal arrangement, contract or understanding between the United Mine Workers of America and union operators, to destroy and prevent interstate trade and commerce in bituminous coal from unorganized fields by destroying or interfering with the facilities of said unorganized mines for the production and shipment thereof. It further states, if the plaintiffs suffered damages on account of the acts alleged to have been committed, and claimed to be unlawful, as set forth in the complaint, they were not the acts of the United Mine Workers of America, but were the acts of some one else and that the said United Mine Workers of America is not bound by the acts of the persons committing said alleged wrongs, because said acts were not committed by authority of the said United Mine Workers of America and it is in no wise responsible therefor. It denies that it entered into the combination and conspiracy alleged to have been formed by it and certain coal operators in the year 1898, or at any other time, and denies that it has joined in such a combination or conspiracy or been a party thereto from the year 1898 down to and including the year 1916. It denies that any such combination or conspiracy has existed between it and all or any of the coal operators in the States of Illinois, Ohio, Indiana, or other states where the members of the United Mine Workers of America are employed to labor in and about coal mines; denies that the United Mine Workers of America controls the labor situation in said states. It denies that it knows the names of the operators in the States of Illinois, Ohio, Indiana and other states, who are alleged to have, in connection with the
392 United Mine Workers of America, formed the combination and conspiracy in 1898, or who have continued said conspiracy and combination down to the present time; denies that it knows the names of the operators in said states whom the plaintiffs claim entered into the negotiation, understandings and agreements with the United Mine Workers of America in the States of Ohio, Illinois, Indiana, or other states, to the effect that in consideration of said operators agreeing to or continuing to operate union mines the said United Mine Workers of America and those working in conjunction with them, would, by strikes and other unlawful

means, prevent the production and shipment of bituminous coal by all non-union and unorganized mines in other states whose products come into interstate competition with the said union mines through the course of interstate trade and commerce. And it further states that if such contracts or agreements were ever made, entered into or existed it knows nothing of them or any of them, and has been unable to find them or any of them, and it denies that the plaintiffs do not know the names of the operators in said states entering into such agreements, combinations, conspiracies or understandings, if there were such. It further states that it has a general knowledge of the coal operators employing union labor in the districts where said labor union is recognized by coal operators, but that it has no knowledge whatever of any such agreements, understandings or conspiracies as referred to and described by the plaintiffs in their complaint, and therefore denies that any such conspiracy, understandings or agreements exists or ever existed. It denies that any such agreement has been interpreted by the United Mine Workers of America and the union operators as an obligation on the union miners to work in harmony for the benefit of the
393 union operators and the union miners for the purpose of excluding from interstate commerce the production of non-union labor. It denies that it is a member of or a party to any such agreement, combination or conspiracy as is alleged in the complaint with the Waverly Coal & Coke Company, or any of the other individuals, firms, partnerships or corporations named in Section 21 of plaintiffs' third amended complaint, or with anyone else, or that it has ever been a member of or a party to any such conspiracy or agreement, or that it has ever committed any acts in furtherance of any such combination or conspiracy, or that anyone else has ever committed any act for it in furtherance of said combination, conspiracy or understanding.

It denies that in furtherance of an illegal combination, and conspiracy to restrain and prevent interstate trade and commerce in bituminous coal, or to drive non-union coal out of interstate trade and commerce, the United Mine Workers of America and those working in conjunction with it, did at various times since 1898 embark and engage upon a general campaign and crusade to prevent non-union bituminous mines in the State of Pennsylvania from engaging in interstate trade and commerce in non-union coal; denies that through strikes, violence, intimidation and threats, it prevented the employment of any operatives for the production, loading and shipping of coal, or by the use of fire and explosives it destroyed

the facilities of said mines for the production, loading and shipment of said coal; denies that in 1911 the United Mine Workers of America, and those acting in conjunction with it, did undertake and did employ similar means in furtherance of an unlawful design against non-union mines in Westmoreland & Irwin Districts in the State of Pennsylvania, known as the Westmoreland & Irwin mines, in order to pre-
394 vent said mines from engaging in interstate trade and commerce in non-union coal. Denies that in furtherance of such illegal combination and conspiracy to restrain trade, among the several states, in coal, the United Mine Workers of America and those acting in conjunction with it, did in the year 1913, enter into a general campaign and crusade against non-union mines in the State of Colorado, and by strike, violence, threats and intimidation, prevent said mines from procuring further employes to produce, load or mine coal for interstate trade and commerce, or that the said United Mine Workers of America, or anyone for it, did by the use of fire and explosives destroy the facilities of said mines for the production, loading and shipment of coal for interstate trade and commerce, in order thereby to destroy interstate trade and commerce in non-union coal. Denies that at various times, or any time, since 1906, in furtherance of an unlawful scheme to restrain trade in bituminous coal among the several states, the said United Mine Workers of America and those acting in conjunction with it, did engage in a general campaign and crusade to destroy interstate trade and business of non-union bituminous mines in West Virginia, and by strikes, violence, threats, and explosives, or by preventing employment of other operatives to carry on said work, destroyed the facilities of said mines for the production, loading and shipment of coal for interstate trade and commerce. Denies that said United Mine Workers of America and those working in conjunction with it, have from time to time, or at any time, employed any means to destroy the business of non-union companies in Pennsylvania, West Virginia, Colorado and other states, in order to prevent them from shipping non-union coal for interstate trade and commerce.

395 It denies that early in the year 1914, all of the plaintiffs in this action decided that the operating companies should be conducted on a non-union or open shop basis, without discrimination against any employee on the ground that he was or was not a member of any union. Denies that about the middle of March, 1914, the Mammoth Vein Coal Company and the Prairie Creek Mining Company closed down their

said mines and discontinued operation as union mines preparatory to reopening on the non-union or open shop basis in the month of April 1914; it admits that the Hartford Coal Company had not been in operation for over a year previous thereto but denies that it was the plan and intention of said company to also reopen upon the non-union or open shop basis as soon as it became expedient so to do, or at least in the summer of 1914. It admits that the Coronado Coal Company continued operation as a union company until April 14, 1914, but denies that its employees were ordered out on a strike by the United Mine Workers of America, either in furtherance of an unlawful conspiracy, or otherwise. Denies that it was the intention of the said Coronado Coal Company and the persons and corporations financially interested in it, that said company should be placed upon a non-union or open shop basis as soon as expedient, or at least by the summer of 1914. It denies that said plan of operation of said mines was in part to be carried out by having the Mammoth Vein Coal Mining Company operate the mine of the Mammoth Vein Coal Company, and the Prairie Creek Coal Mining Company, under its written contract described in paragraph marked "4" in the complaint. Denies that there was any such written contract.

396 Denies that in the year 1914, either or all of the plaintiffs had made preparations to do a large and profitable business with dealers in coal in other states, and to renew, manage and conduct said interstate trade and commerce upon a non-union or open shop basis. Denies that the market outside of the States of Arkansas was such as to warrant the full belief that the ensuing season would be a profitable one to said companies; and denies that said plaintiffs intended to sell their coal, if any was produced, outside of the state. Denies that in the year 1914 the United Mine Workers of America and those acting in conjunction with it, undertook to destroy the business of said operating companies; denies that any of said operating companies were engaged in carrying on interstate trade or business, or enjoying an interstate good will, or were shipping non-union coal to customers in other states in the course of interstate trade and commerce. Denies that the rest of said operating companies were prepared to commence and renew their interstate trade and business or were intending to renew interstate trade and business upon a non-union basis.

It denies that at all times, or any time, after April 1, 1914, it or anyone acting in conjunction with it, in furtherance of an unlawful conspiracy, as alleged in the complaint, knew

of the alleged intentions, plans and costly preparations of said companies, persons or corporations in control thereof, to operate each and every one or any of said mines, in the future upon the open shop or non-union basis, or to sell and ship non-union coal in interstate commerce in competition with union mines, and denies that any of the acts alleged to have been committed by it, and others acting in conjunction with it, in furtherance of the alleged conspiracy, were
397 done by it, or by anyone acting in conjunction with it, or by anyone acting for it, or were done in furtherance of said unlawful scheme and conspiracy, or to prevent interstate trade and, commerce in bituminous coal produced loaded, or shipped by so-called non-union or open shop mines.

It denies that in April 1914, and at various times, or any time, thereafter, in furtherance of plans to have all of the plaintiffs engaged in interstate trade as non-union mines, some of said operating companies began to operate their mines on an open shop basis; denies that from time to time in the year 1914, said operating companies employed large numbers of men, or any men whomsoever, who were engaged in the work of mining, loading and shipping coal for interstate trade and commerce; denies that said operating companies were preparing to employ additional miners and open additional mines for the pupose of carrying on interstate trade and commerce on a still larger scale, or preparatory to having all of said operating companies do likewise; denies that it, either by itself or acting in conjunction with others, in furtherance of the alleged combination and conspiracy to drive non-union coal out of interstate trade and commerce, or to restrain and prevent interstate trade and commerce in coal, or in furtherance of any understanding with the proprietors of union mines competing with said mines, combined or conspired together in furtherance with said conspiracy to ruin and destroy the interstate trade and commerce of said mines, or to prevent them from commencing or engaging, or continuing therein, by interfering with and preventing the production, loading and shipment of coal for interstate trade and commerce by said mines; it denies that in furtherance of said combination and conspiracy, it, or anyone acting for it, by threats, intimidation, violence
398 and unlawful assemblies, drove and frightened away all of the men employed by plaintiffs at the mines at the work of mining, loading and shipping coal for interstate trade and commerce, or those men employed at the work of placing cars of interstate carriers in the proper place on the tracks

of said carriers where they could be loaded with coal for shipment outside of the state; or those men employed in loading said cars of common carriers, or those who placed the cars after loading upon the proper part of the tracks of the common carriers where they could be taken up by the interstate trains of said carriers for transportation to points outside of the state; denies that by threats, violence, murder, mobs and riots, it, or anyone acting for it, or in conjunction with it, prevented the said companies from employing or obtaining for employment any other operatives to load said cars of interstate carriers or to manipulate and place said cars before and after loading for interstate transportation in their proper place on the tracks of the carriers, or by the same unlawful methods, prevented said plaintiffs from employing or obtaining for employment any miners whomsoever to perform any of the work of mining, loading or shipping of coal for said mines; denies that by the use of fire, dynamite or other explosives, it or anyone acting for it, destroyed the structure, or other valuable facilities of said mine for the production, loading and shipment of coal for interstate trade and commerce, or destroyed the cars of interstate carriers which were stationed at or about the mines waiting to be loaded with interstate shipments, or destroyed cars of said carriers and shipments already loaded thereon to be hauled away by interstate carriers for transportation to consignees outside of the State of Arkansas, or destroyed the
399 business of other concerns in which the same persons were interested, in order to impoverish said persons or to prevent their carrying on said non-union coal mining business. It denies that by any unlawful acts committed by it, or anyone for it, or anyone acting in conjunction with it, any of the plaintiffs were prevented from engaging or continuing to engage in interstate trade and commerce. Denies that it well knew or intended that the destruction of the coal mines of said operating companies and the interference with the operation thereof would result in the destruction of the interstate trade and commerce of said plaintiffs, and denies that it had anything to do, either directly or indirectly, with the destruction of said coal mines or the facilities for operating them.

It denies that it was a member of a contract, combination, agreement, conspiracy or understanding with the persons named in the complaint, or anyone else, to injure or destroy the interstate trade or commerce of the plaintiffs, or of coal operators engaged in the production, shipment and sale of coal produced at non-union mines, and denies that it acted

in conjunction with any of the persons referred to by plaintiffs in their alleged paragraph number "26" in their complaint, or with any other persons, firms, partnerships or corporations.

It denies that it committed any of the alleged wrongful acts or that anyone committed any of the alleged wrongful acts for it, on April 6, 1914, July 17, 1914, July 18, 1914, July 19, 1914, July 20, 1914, or at any other time. Denies that it or anyone for it, frightened away from plaintiffs' mines, J. T. Allison or any of the other persons which plaintiffs claim were frightened away from said mines, as set forth in
400 paragraph referred to as Section 26 in plaintiffs' complaint.

It denies that it, or anyone acting for it, prevented any person from entering or continuing in the employe of said companies by putting them in fear of harm or violence to their person or property, or otherwise. It denies that except for the alleged unlawful combination and conspiracy of the defendants and the acts alleged to have been done in furtherance thereof, the said Hartford Coal Company, the Mammoth Vein Coal Company, the Coronado Coal Company, the Prairie Creek Coal Mining Company and the Mammoth Vein Coal Mining Company, would have, long prior to the commencement of this action, secured employes to man their mines and engage in the work of producing, loading and shipping coal for interstate trade and commerce, and denies that said companies, or either or any of them, would have shipped coal to the amount of over $600,000 annually in the aggregate, or would have realized a large profit thereon. It denies that by reason of any of its alleged acts, or of the alleged acts of anyone alleged to have been acting for it or in conjunction with it, or in furtherance of said alleged combination and conspiracy in restraint of interstate trade and commerce, or the acts done in furtherance thereof to injure and destroy the business of said companies, the said plaintiffs have suffered loss and injury to their said business and property in the sum of $740,689.42, or any other sum whatever.

It denies that the Prairie Creek Coal Mining Company has suffered damages to its business and property to the extent of $281,057.50, as set forth in the complaint, or any other sum. It denies that the Mammoth Vein Coal Company has suffered damage to its business and property in the
401 sum of $117,210.34, or any other sum, as set forth in the complaint. Denies that the Mammoth Vein Coal

Mining Company has suffered damage to its business or property in the sum of $192,953.44, or any other sum, as set forth in the complaint. Denies that the Coronado Coal Company has suffered damage to its business and property in the sum of $89,696.72, or any other sum, as set forth in the complaint; denies that the Hartford Coal Company has suffered damage to its business or property in the sum of $28,214.97, or any other sum, as set forth in the complaint. Denies that the Sebastian County Coal Company has suffered damage to its business and property in the sum of $17,661.10, or any other sum, as set forth in the complaint. Denies that the Mammoth Vein Royalty Company has suffered damage to its business and property in the sum of $4,000.00 or any other sum as set forth in the complaint; denies that the Bache-Denman Coal Company has suffered damage to its business or property in the sum of $4,245.15, or any other sum, as set forth in the complaint. Denies that the Denman Coal Company has suffered damage to its business or property in the sum of $5,650.00, or any other sum, as set forth in the complaint.

It denies that any contractual relations existed between the Prairie Creek Coal Company and the Mammoth Vein Coal Mining Company, so that the damages alleged to have been suffered by the Prairie Creek Coal Mining was also suffered by the Mammoth Vein Coal Mining Company. Denies that any contractual relations existed between the Mammoth Vein Coal Company and the Mammoth Vein Coal Mining Company so that the damages alleged to have been suffered by the Mammoth Vein Coal Company was also suffered by the Mammoth Vein Coal Mining Company, and denies that either of said companies has suffered any damages, either
402 in the sum of $56,543.98, or any other sum, as stated in the complaint.

The United Mine Workers of America denies that it was a member of or a party to a conspiracy or unlawful contract, combination or conspiracy in restraint of trade and commerce among the several states of the United States, in violation of the Anti-Trust Act of Congress July 2, 1890; denies that under the provisions of said act the plaintiffs are entitled to recover of and from the United Mine Workers of America any damages prescribed by said act of congress in the sum of $2,222,068.26. or any other sum whatever, or costs or attorney fees or provided in said act.

The said United Mine Workers of America states that it knows nothing whatever concerning the funds alleged to be

to its credit in the American National Bank of Fort Smith, Arkansas, and states that it has nothing whatever to do with said money. It says that it receives dues which are voluntarily paid by its members to it; that it has no property and receives only such monies as are voluntarily paid to it by its members. It says that it has no contract with the coal operators in District 21, or elsewhere, whereby it is due large sums of money, or any other sum whatever.

It denies that it is under contract with the Central Coal & Coke Company, the Western Coal & Mining Company, the Bolin-Darnall Coal Company, the Branner Coal Company or other coal companies by which it is to receive large sums of money from its members. That said dues are received from its members to be used for the mutual betterment of the members of the organization. It states that a large number of its members reside in the State of Arkansas; that it has no existence or entity apart from its membership.
403 Denies that it is about to remove a material part, or any part, of its property out of the state, and denies that there is any ground for attachment or garnishment against it, as shown in plaintiffs' complaint.

Wherefore, the said United Mine Workers of America having fully answered, prays judgment and all proper relief.

II.

And the said United Mine Workers of America, in answer to the second count of plaintiffs' complaint, alleges the facts as set forth in the first count of its answer above, makes them a part of this paragraph as if each and every one of the allegations in said paragraph one was specifically set forth in this paragraph and further says, that it denies that it is, or has been, a member of or a party to a conspiracy, combination, contract, agreement or understanding, with the other defendants named in the complaint, or with the corporations, individuals, firms or persons referred to in the complaint, to restrain or interfere with the production, loading and shipment or sale of coal in interstate trade or commerce. It denies that it formed, or was a party to the formation, of any conspiracy referred to in the first or second count of plaintiffs' complaint, with the unlawful or wilful purpose or design of preventing the plaintiffs from operating their mines or of injuring or destroying said mines, or the business of plaintiffs, as set forth in the complaint. Denies that it or anyone for it, has in anywise injured or destroyed the plaintiffs property or business or caused them

to suffer damage in the sum of $740,689.42, or any other sum, and denies that plaintiffs are entitled to recover that sum, or any other sum, as actual damages on account of
404 said alleged wrongful acts; denies that it is entitled to recover a double sum as punitive damages, or a total sum of $2,222,068.26, or any sum whatever, on account of this action.

Wherefore, the said United Mine Workers of America prays judgment and for other and proper relief.

III.

And the United Mine Workers of America, further answering herein, makes paragraph No. 1 a part of this paragraph, the same as if every word in said paragraph was copied specifically in this paragraph, and further says:

That the United Mine Workers of America is a labor union composed of more than 400,000 working men in the United States, Canada and Mexico, engaged in the digging of coal and organized in an unincorporated society; that it has no legal entity apart from its membership and is not engaged in business for profit anywhere, but has for its objects and purposes shorter working hours for its members, reasonable compensation for services rendered and the betterment of general working conditions for its members, as shown by its constitution, which was in full force and effect and under which it has operated from 1898 until the present time, and which is as follows, to-wit:

405 (Note by Clerk of District Court: The Constitution of the United Mine Workers of America was introduced in evidence and is set forth in the Bill of Exceptions at pages 660 to 705 inclusive of the transcript. The copy of said Constitution set out in the Answer is therefore omitted here.) [Marginal Pages 660 to 705 of this printed record.]

406 That no member or members, officer or officers, of said United Mine Workers of America is authorized or empowered to act for or in behalf of, bind or represent it, beyond the scope of the provisions and terms of said constitution. That if any member or members, officer or officers, of said United Mine Workers of America has conspired with any person or persons, become a member or members of, or a party or parties to, a conspiracy, combination, agreement, contract or understanding, with any person or persons, firms or corporations, either named in the complaint or not named therein, to destroy the business or property of non-union

mines, or to interfere with the production, loading, shipment or sale of coal produced from non-union mines, or have committed any act or acts in furtherance of any such conspiracy, agreement, contract or understanding, it is beyond the scope and provisions and terms of said constitution, and is therefore not binding upon said labor union, and it pleads the terms and provisions of said constitution and the matters and things set forth herein as a complete bar to plaintiffs' right to recover against it herein.

IV.

And the United Mine Workers of America, further answering herein, says that it makes paragraph No. 1 herein a part of this paragraph, the same as if every word in said paragraph No. 1 was specifically repeated herein, and in addition thereto says:

That the plaintiffs, and each of them, were parties to and participated in each and every contract and agreement between the union operators and the United Mine Workers of America made in District 21, and the defendant locals, during the years 1903 to 1914, both inclusive, and that
407 said plaintiffs, as union operators, engaged and participated in, promoted and were parties to, the conspiracies alleged in said complaint, if there was such conspiracies, and by reason of said contracts, are not entitled to recover any damages suffered by them, or either of them, resulting from said conspiracy.

V.

And the United Mine Workers of America, further answering says, that it makes paragraph 1 of this answer a part of this paragraph, the same as if every word in said paragraph 1 was specifically repeated herein, and in addition thereto says, that the United Mine Workers of America is a voluntary, unincorporated association, not registered under any trade union laws, not engaged in any business, and that it has no legal entity apart from its members; that it is a labor union composed of more than 400,000 men who are engaged in the occupation or craft of laboring in and about coal mines in the Republic of Mexico, United States of America and Dominion of Canada, having for its objects and purposes the mutual betterment of the conditions of its members by way of procuring shorter working hours for its members and the betterment of general working conditions. That its members labor for themselves and collect for their labor and that no part of the compensation for said

labor belongs to the United Mine Workers of America; that the only funds it receives are funds paid in by the members in the form of dues, paid monthly by each member, to be used as provided by the constitution of said association, for the mutual betterment of the members. That the membership of said labor union is composed of people of all Nationalities; that its membership is a shifting one, people becoming members daily and people withdrawing their mem-
408 bership daily. That every person performing services at or about the coal mines is eligible to be a member of said labor union, and no such person is prohibited from joining said association if he so desires; and the said United Mine Workers of America says that as such association it cannot be sued as such association in this action, and it pleads such facts in bar to plaintiffs' right to recover herein.

VI.

The United Mine Workers of America further answering herein, makes paragraph 1 of this answer a part of this paragraph the same as if said paragraph was specifically repeated in this paragraph, and further says, that there is a misjoinder of parties plaintiffs and of causes of action in this action, for the reason that each of said plaintiffs is a separate and distinct corporation and that neither of said corporations have any community of interest or rights in common with the other in the subject of the action and in the money sued for; that if either of said plaintiffs has suffered any damages on account of the alleged wrongs, or is entitled to recover anything whatever on account of the matters stated in the complaint, such right to recover is personal to the plaintiffs so entitled to recover and neither of the other plaintiffs have any interest therein that would entitle all of the plaintiffs to sue in one action herein. And the United Mine Workers of America plead that there is a misjoinder of parties plaintiffs and of causes of action, and pleads such facts as a bar to the right of either of the plaintiffs to recover herein.

409 VII.

And the United Mine Workers of America, further answering herein, says, that it makes paragraph 1 of this answer a part of this paragraph, the same as if it was specifically repeated herein and in addition thereto says:

It is not engaged in selling or transporting coal in any form or manner whatever, and that its members are not so engaged. That said association has no business whatever, but

that its members employed in and about coal mines and perform labor thereat, that the object and purpose of said association is to obtain shorter working hours for its members and reasonable compensation for services rendered by them, and for the betterment of the working conditions of said members. That if the price of coal is enhanced by reason of increased cost of producing the same by paying better wages for the production thereof, such increased price does not affect the market for coal so as to make the members of said association guilty of violating the provisions of the Sherman Anti Trust Law, or the provisions of the Clayton Anti Trust law, and is not an interference with interstate commerce, and it pleads such facts as a bar to the right of either of the plaintiffs to recover herein.

VIII.

The United Mine Workers of America, further answering, says it makes paragraph No. 1 of this answer a part of this answer the same as if it was specifically repeated herein, and in addition thereto says:

That it is not engaged in any business whatever, as it is an unincorporated association or labor union, organized for the purpose of obtaining shorter working hours for
410 its members, reasonable compensation for services rendered by its members, and the betterment of general working conditions for its members; that it is not engaged in the sale or transportation of coal, and that its members are not so engaged, but that its members are engaged in the craft or occupation of mining coal and that the work of mining coal and performing labor in and around the coal mines is not a subject of monopoly under the Sherman Anti Trust Law and under the Clayton Act, and it pleads such facts as a bar to the right of either of the plaintiffs to recover herein.

IX.

And the United Mine Workers of America, further answering herein, makes paragraph No. 1 a part of this paragraph the same as if every word in the said paragraph 1 was copied specifically in this paragraph, and in addition thereto says:

That District 21 of the United Mine Workers of America is a voluntary, unincorporated association, or labor union, composed of about 25,000 working men in the State of Arkansas, Oklahoma and Texas, engaged in digging coal for themselves at and about the coal mines in said states; that

said District 21 has no legal entity apart from its membership and is not engaged in business for profit anywhere, but has for its objects and purposes, shorter working hours for its members, reasonable compensation for service rendered, and the betterment of general working conditions for its members; that it has a separate constitution which has been in full force and effect and under which it has operated for at least fifteen years before the beginning of this action, which said constitution is as follows, to-wit:

411 (Note by Clerk of District Court: The Constitution of District No. 21 United Mine Workers of America was introduced in evidence and is set forth in the Bill of Exceptions at pages 4161 to 4193 inclusive of this transcript. The copy of said Constitution set out in the Answer is therefore omitted here.) [Marginal Pages 4161 to 4193 inclusive of this printed record.]

412 That no member or members, officer or officers, of said District 21, is authorized or empowered to act for or in behalf of said District 21, bind or represent it, beyond the scope of the provisions and terms of said constitution; that said District 21 and the officers and members thereof have no authority to act for represent, or bind the said United Mine Workers of America in any manner or matter whatever; that if any member or members, officer or officers of said District 21 has conspired with any person or persons or become a member or members of, or party or parties to a conspiracy, combination, agreement, contract or understanding with any person or persons, firms or corporations, either named in the complaint or not named therein, to destroy the business or property of non-union mines, or to interfere with the production, loading, shipment or sale of coal produced from non-union mines, or committed any act or acts in furtherance of any such conspiracy, agreement, contract or understanding, it is beyond the scope and provisions and terms of said constitution, and is therefore not binding upon the said District, nor binding upon the United Mine Workers of America, and it pleads the terms and provisions of said constitution, and the matters and things set forth herein, as a complete bar to plainiffs' right to recover against it herein.

X.

The United Mine Workers of America further answering herein, says that it makes paragraph 1 a part of this paragraph the same as if every word in said paragraph was copied specifically in this paragraph, and further says:

That each and every local union named as a defendant in plaintiffs' complaint, is an unincorporated labor
413 union, composed of a large number of individuals who are engaged in mining coal and working in and about coal mines at or near where said local unions may be located; that said local unions have no authority or power to act for or bind the United Mine Workers of America in any manner or for any purpose whatever; that neither the officers or members of said local unions have any authority or power whatever to act for, represent or bind the said United Mine Workers of America in any manner or for any purpose whatever; that if any of said local unions, or the officers or members thereof, have conspired with any persons or corporations to interfere with the mining, loading and shipment of coal in interstate commerce, or otherwise, such acts are not the acts of the said United Mine Workers of America, and it pleads such matters as a complete bar to the right of either of the plaintiffs to recover herein.

Having fully answered, the United Mine Workers of America prays judgment, and for all proper relief herein.

HENRY WARRUM
COVINGTON & GRANT
Attorneys for Defendants.

---

414 Separate Answer of District No. 21, United Mine Workers of America.

Filed in U. S. District Court July 7, 1917.

Comes now District 21 of the United Mine Workers of America, and without waiving any rights under its motion to quash the summons of service upon it, and still insisting and relying upon said motion, and here protesting against being required to plead in this action, for the separate answer to plaintiffs' complaint filed herein, says:

I.

It adopts every paragraph of the answer filed herein by the United Mine Workers of America as and for its answer to plaintiffs' complaint, and makes each and every paragraph of said answer its answer and a part of this answer, the same as if it was repeated herein word for word, and relying upon each and every paragraph of said answer as a complete defense and bar to the right of each plaintiff to recover herein.

II.

And the said District 21 of the United Mine Workers of America, further answering herein, says, it makes paragraph No. 1 of this answer a part of this paragraph the same as if every word therein was repeated specifically in this paragraph, and in addition thereto, says:

That District 21 of the United Mine Workers of America is a labor union composed of about 25,000 working men in the States of Arkansas, Oklahoma and Texas, who are engaged in the digging of coal, and organized into an unincorporated society; that it has no legal entity apart from its membership and is not engaged in business for
415 profit anywhere, but has for its object and purposes shorter working hours for its members, reasonable compensation for services rendered and the betterment of general working conditions for its members, as shown by its constitution which has been in full force and effect for more than fifteen years before the filing of this action, and under which it has operated during all of said time. That no member or members, officer or officers of said District 21 of the United Mine Workers of America, is authorized or empowered to act for or on behalf of it, bind or represent it beyond the scope of the provisions and terms of said constitution; that if any member or members, officer or officers of said District 21 of the United Mine Workers of America, has conspired with any person or persons or become a member or members of, or a party or parties to, a conspiracy, combination, agreement, contract or understanding with any person or persons, firms or corporations, either named in the complaint or not named therein, to destroy the business or property of non-union mines, or to interfere with the production, loading, shipment or sale of coal produced from non-union mines, or have committed any act or acts in furtherance of any such conspiracy, agreement, contract or understanding, it is beyond the scope and provisions and terms of said constitution and is therefore not binding upon said labor union and it pleads the terms and provisions of said constitution and the matters and things set forth herein as a complete bar to plaintiffs' right to recover against it herein.

III.

And District 21 of the United Mine Workers of America, further answering herein says, that it makes paragraph 1 of this answer a part of this paragraph the same as if every

word in said paragraph 1 was copied specifically in
416 this paragraph, and further says:

That each and every local union named as a defendant in plaintiffs' complaint is an unincorporated labor union composed of a large number of individuals who are engaged in mining coal and working in and about coal mines at or near where said local unions may be located; that said local unions have no authority or power to act or bind District 21 of the United Mine Workers of America in any manner or for any purpose whatever; that neither the officers nor members of said local unions have any authority or power whatever to act for, represent or bind the said District 21 in any manner or for any purposes whatever; that if any of said local unions or the officers or members thereof, have conspired with any persons or corporations to interfere with mining, loading and shipment of coal in interstate commerce, or have committed any acts in furtherance of any such conspiracy, contract, agreement or understanding, such acts are not the acts of District 21, and it pleads such facts as a complete bar to the right of either of the plaintiffs to recover herein.

IV.

And District 21 of the United Mine Workers of America further answering says, that it makes paragraph 1 of this answer a part of this paragraph, the same as if every word was repeated specifically herein, and in addition thereto, says:

That if it be true that either of the plaintiffs had a cause of action against it for any of the alleged wrongs or damages claimed to have been suffered, as set forth in the complaint, neither of said plaitniffs can recover herein for the
reason that the action was not begun until after more
417 than one year had expired from the date of the alleged
unlawful acts resulting in the damages sued for, and that said damages was suffered more than one year before the institution of this suit, and it pleads the one year statute of limitations as a complete bar to the right of either of the plaintiffs to recover herein.

Wherefore, District 21 of the United Mine Workers of America, having fully answered herein, prays judgment in its behalf and for all proper relief hereunder.

HENRY WARRUM
COVINGTON & GRANT
Attorneys for Defendants.

418 Separate Answer of Each Local Union.

Filed in U. S. District Court July 7, 1917.

Come now Local Unions Number 340, 560, 1130, 1526, 1530, 1565, 1810, 1814, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2494, 2766, 2769, 2770, 2772, 2841 and 2880, joining together in this answer for convenience only, and each local union says, that without waiving any rights under its motion to quash the summons and pretended service thereof upon it, but reserving all rights under said motion, and still insisting upon the same, and protesting against being required to proceed further, for its separate answer herein says:

I.

It adopts every paragraph of the answer filed herein by the United Mine Workers of America, as and for its answer to plaintiffs' complaint and makes each and every paragraph of said answer its answer and a part of this answer, the same as if it was repeated herein word for word, and relying upon each and every paragraph of said answer as a complete defense and bar to the right of each plaintiff to recover herein.

Wherefore, having fully answered, each local herein prays that it have judgment in its behalf, and for all proper relief herein.

HENRY WARRUM
COVINGTON & GRANT
Attorneys for Defendants.

---

419 Separate Answer of Individual Defendants.

Filed in U. S. District Court July 7, 1917.

Come now the defendants, P. R. Stewart, Wm. McLachlin, Jess Edwards, Charley Farley, Joe Overman, O. A. Brooke, Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charles Hendrix, Jim Lee, George Burnett, Pink Dunn, Pete McMullen, John Mastell, James Slankard, M. B. Appleby, Bruce Jordan, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Wm. Rodden, Joe Kerbellas, Joe Lanier, Charles Blackburn, Ed Kehee, Albert Hunter, Rich Handlin, Scott Adkins, Frank Petty, Claude Litchford, John Litchford, Otto Altman, Carey Crumpton, Wm. Price, Pete McMullen, Jr., John Murray, Sam Wooten, Marion Hulsey, Maje Hulsey, Tom Watson, Derwood Warren, Harry Birkett, Bud Williams, Brock Smith, Willis Congo, Leslie Congo,

Bud Congo, Charles McCowen, J. W. Howard, John T. W. Davis, Edward Cunningham, Tom King, John P. White, Jake Thompson, Jim McNamara, Whit Miller, Joe Coneoda, B. Trout, and Joe Assola, and each said defendant answering separately for himself the complaint of the plaintiffs filed herein, says:

I.

He adopts paragraphs I, II, III, IV, VI, VII, of the answer filed in this case by the United Mine Workers of America, as for his answer, the same as if each of said paragraphs of said answer was copied word for word herein, and makes each of said paragraphs a part of this answer, and relying upon each and every said paragraph of said answer as a complete defense and bar to the right of each plaintiff to recover herein.

Wherefore, having full answer herein each defendant
420 named herein prays that he have judgment in his behalf, and for all other proper relief.

HENRY WARRUM
COVINGTON & GRANT
Attorneys for Defendants.

---

421 (Record Entry, July 7, 1917, of the filing of Answers to third Amended Complaint.)

Before Judge Youmans.

This day comes defendant United Mine Workers of America by Messrs. Covington & Grant, its attorneys, and files its separate answer in the above entitled cause.

This day comes defendant District No. 21 United Mine Workers of America by Messrs. Covington & Grant, its attorneys, and files its separate answer in the above entitled cause.

This day come defendants Local Unions No. 340, 560, 1130, 1526, 1530, 1565, 1810, 1814, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2494, 2766, 2769, 2770, 2772, 2841 and 2880, by Messrs. Covington & Grant, their attorneys, and file separate answer in the above entitled cause.

This day come defendants P. R. Stewart, Wm. McLachlin, Jess Edwards, Charley Farley, Joe Overman, O. A. Brooke, Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charles Hendrix, Jim Lee, George Burnett, Pink Dunn, Pete McMullen, John Mastell, James Slankard, M. B. Appleby, Bruce Jordan, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis

Evans, Wm. Rodden, Joe Kerbellas, Joe Lanier, Charles Blackburn, Ed Kehee, Albert Hunter, Rich Handlin, Scott Adkins, Frank Petty, Claud Lichford, John Lichford, Otto Altman, Carey Crumpton, Wm. Price, Pete McMullen, Jr., John Murray, Sam Wooten, Marion Hulsey, Maje Hulsey, Tom Watson, Derwood Warren, Harry Birkett, Bud Williams, Brock Smith, Willis Congo, Leslie Congo, Bud Congo, Charles McCowen, J. W. Howard, John T. W. Davis, Edward Cunningham, Tom King, John P. White, Jake Thompson, Jim McNamara, Whit Miller, Joe Coneoda, B. Trout and Joe Assola, by Messrs. Covington & Grant, their attorneys, and file separate answer in the above entitled cause.

422

---

423 (Petition for the Production of certain Documents and papers at the Trial of the case.)

Filed in U. S. District Court September 6, 1917.

To the Honorable the District Court of the United States for the Western District of Arkansas:

Your petitioners, C. H. Finley and H. P. Hilliard, respectfully represent:

1. That suit was brought by your petitioners as plaintiffs in the above entitled case, receivers as therein entitled, against the defendants therein named for damages under the Sherman Anti-Trust Act as therein specified and set out, to which complaint the defendants, United Mine Workers of America, District No. 21 United Mine Workers of America, John P. White, individually and as President of the United Mine Workers of America, Frank J. Hayes, individually and as Vice-President of the United Mine Workers of America, William Green, individually and as Secretary-Treasurer of the United Mine Workers of America, and all other associate and individual defendants therein named filed answers and the case was set for trial for October 16, 1917.

2. That on August 3, 1917, notice was duly served on Henry Warrum, attorney for the United Mine Workers of America in the above entitled case for the taking before William S. Garber, Notary Public, at the office of the said William S. Garber, 525 Lemcke Building, Indianapolis, Indiana, on August 15, 1917, of the depositions of John P. White and William Green, being defendants herein and being respectively, the President and Secretary-Treasurer of the United Mine Workers of America, defendants herein, service of which notice was accepted by the said Henry Warrum on said August 3, 1917.

424

3. That by agreement between counsel for the plaintiffs and said Henry Warrum, counsel for the defendants, the date for taking said depositions was changed, first, to August 13th and subsequently to August 20th.

4. That on August 20th pursuant to said notice and agreed adjournment counsel for plaintiffs appeared at the place for the taking of said depositions which by agreement between counsel was changed to the office of the United Mine Workers of America, defendant, Merchants National Bank Building, Indianapolis, Indiana, at which place on August 20, 1917, at 9 o'clock A. M. there appeared as representing the said defendants, Henry Warrum, Esquire, and Love Grant, Esquire, counsel for the defendants, whereupon counsel for the plaintiffs proceeded to take the depositions of the said John P. White and William Green, the taking of the said depositions occupying the two days, August 20th and 21st, 1917.

5. A copy of said depositions as furnished by the notary taking the same is annexed to this petition.

6. In the course of the said depositions it appeared from the testimony of the said John P. White, as shown on pages 289 to 300 and page 313 of the copy hereto annexed, that the said John P. White had in his possession in the office of the United Mine Workers of America, where the said depositions were then being taken, certain correspondence which had passed between the said John P. White and Peter Stewart and Fred Holt and James Mullan, who were in the year 1914, when the present cause of action arose, respectively, President of District 21 United Mine Workers of America, Secretary-Treasurer of District 21 United Mine Workers of America
425 and International Executive Board member for District 21 United Mine Workers of America, said correspondence having passed between the said parties between April 1, 1914 and January 1, 1915. The said John P. White refused to produce the said correspondence, and stated that he would decline to do so except on order of the court.

7. The said correspondence having passed between the President of the United Mine Workers and the officers of the United Mine Workers of America in District 21 during the period when the matters were occurring giving rise to the present case and immediately subsequent thereto is believed by your petitioners to be material, relevant and most important in connection with the present cause of action.

8. In the course of the said depositions the said John P. White produced from his files at the request of counsel for the

plaintiff a copy of a certain letter dated November 4, 1914, written by him, the said John P. White, to the Hon. William B. Wilson, Secretary of Commerce and Labor, and as shown on pages 321 and 322 of the said depositions. The said John P. White offered in evidence his said reply to William B. Wilson dated November 4, 1914, but refused to permit the stenographer to mark for identification the letter from the Hon. William B. Wilson to John P. White, dated November 2, 1914, with enclosed copy of letter from Franklin Bache, then receiver of the plaintiff companies, to Hon. Woodrow Wilson, President of the United States, or to produce the same or permit the same to be transcribed on the record in the depositions in this case.

9. Your petiltioners believe that the letter from the said Hon. William B. Wilson to the said John P. White, with enclosure as stated, is relevant, material and most important in connection with the liability of the United Mine Work-
426 ers of America for the acts of the members thereof forming the basis of the present suit.

10. In the course of the said depositions the said John P. White further stated that there was in the files of the United Mine Workers of America under the immediate supervision and control of Frank J. Hayes, Vice-President of the said United Mine Workers of America, defendant herein, but under the ultimate control of the said John P. White as President of the United Mine Workers of America, reports of the organizers of the United Mine Workers of America for the year 1914, it appearing from the said depositions, as shown on pages 301-302 of the copy hereto annexed that the said reports were then in the office of the United Mine Workers of America, where the said depositions were being taken.

11. The said John P. White, however, refused to produce or cause to be produced the said organizers' report for the year 1914 except on order of the court. Your petitioners believe that the said organizers' reports are relevant, material and most important in connection with the liability of the defendants herein for the acts complained of in this case in that they will show the activities of the organizers of the United Mine Workers of America during the period when the acts herein complained of were being done.

12. In the course of the said depositions as will appear on pages 302-310 of the copy hereto annexed, it appeared from the testimony of the said John P. White that he had in his possession and control a typewritten transcript of the minutes and proceedings of the International Executive Board of the

United Mine Workers of America for the year 1914, and that the said William Green, Secretary-Treasurer, had, as
427 custodian thereof, another transcript of the said proceedings of the said International Executive Board for the said period.

13. The said John P. White and the said William Green each refused to produce the said transcript of the said minutes of the said International Executive Board for the said period, or to permit the same to be marked for identification, or to enable the plaintiffs to offer the same or any part thereof in evidence.

14. Your petitioners believe that the said minutes of the said International Executive Board are relevant, material and most important in connection with the cause of action in this case in that they are the record of the proceedings of the International Executive Board of the United Mine Workers of America during the period immediately preceding, covering and immediately following the acts forming the cause of action in the present case.

15. During the course of the said depositions, as appears on pages 12-13 thereof, counsel for the defendants, Henry Warrum and Love Grant, entered into an agreement with counsel for the plaintiffs, Henry S. Drinker, Jr., which said agreement was then and there by mutual consent entered by the stenographer taking the said depositions in the record thereof as appears on pages 12-13 of the copy of said record hereto annexed, by the terms of which said agreement it was agreed that they would produce at the trial of this case in Fort Smith, Arkansas, the files of the United Mine Workers' Journal, official organ of the said United Mine Workers of America, for the years 1907 to 1915, inclusive, the said files for said years to be produced at the said trial on any day in the course of
428 which counsel for the plaintiffs should give reasonable notice to counsel for the defendants that the same would be required, the same to be held for use of the trial for a period not to exceed ten days.

16. Subsequently, on the second day of the taking of said depositions, as appears from pages 207 to 209 of the copy hereto annexed, counsel for defendants without cause or reason declined to comply with the terms of said agreement.

17. Thereafter there was produced by the witness Green, Secretary-Treasurer as aforesaid, from the files of the United Mine Workers of America printed bound volumes comprising

the files of the United Mine Workers' Journal, official organ of the United Mine Workers of America, for the period from January 1, 1892 to April 26, 1916, inclusive, which said volumes were marked for identification by the stenographer taking the said depositions, Exhibits 31a to z, all letters inclusive, and 31aa, 31bb and 31cc, all of which were offered in evidence by counsel for the plaintiffs, as appears on page 342.

During the course of the said depositions there was further produced on call by counsel for the plaintiffs by William Green, Secretary-Treasurer as aforesaid, from the files of the United Mine Workers of America printed volumes containing the printed proceedings of the various conventions of the United Mine Workers of America containing the annual and bi-annual reports of the officers thereof for the years 1901 to 1916, inclusive, which said volumes were marked by the stenographer Exhibits 29a to r, inclusive, and offered in evidence by counsel for the plaintiffs, as appears on page 337 of the copy of said depositions hereto annexed.

18. In the course of the said depositions there were
429 further produced by the said William Green, Secretary-Treasurer as aforesaid, on call of counsel for the plaintiffs from the files of the United Mine Workers of America eight printed volumes identified by the said Green as containing the printed proceedings of the Joint Conventions of the coal operators from the four competitive states, Illinois, Indiana, Ohio and Western Pennsylvania, for the years 1901, 1902, 1903, 1904, 1906, 1908, 1910, 1912, 1914 and 1916, which said volumes were marked by the stenographer Exhibits 30a to h, inclusive, and were offered in evidence by counsel for the plaintiffs, as appears from pages 206 and 245 of the copy of said depositions hereto annexed.

19. After the offer in evidence of the said three Exhibits 29, 30 and 31, as above stated, counsel for the plaintiffs adjourned the taking of the said depositions for the reasons stated by counsel for the plaintiffs on pages 333 and 334 of the copy of the said depositions hereto annexed, in order to secure an order of court for the production of the documents refused to be produced by the said witnesses above set out, and also in order to give counsel for the plaintiffs an opportunity to examine the voluminous documents offered in evidence in order to determine what extracts therefrom would be material to the present proceedings that the same might be specified and placed on the record of the said depositions.

20. Counsel for the defendants thereupon refused on behalf of the defendants to permit the said volumes so offered in evidence to be attached to the said depositions, as appears on the copy of said depositions, page 346, and further stated that the said documents would not be available to counsel for the plaintiffs on any adjournment of the said depositions.

21. That an inspection of the files of said United
430 Mine Workers' Journal shows that the same, as stated by counsel for the defendants, are very voluminous covering many hundred pages of printed matter, and that the said volumes contain certain illustrations illustrating the functions and activities of the United Mine Workers of America, whose official organ the said Journal is, which are relevant and material to the case at bar; for example, on page 1 of the issue of the United Mine Workers' Journal for July 16, 1914, the day prior to the destruction by the defendants herein of the mines and tipples of the plaintiffs forming a part of the basis of the present cause of action, there is a large illustration showing a miner standing outside a conference hall, in which there are presumably engaged in conference representatives of the miners and operators, holding in one hand a miner's pick and in the other a gun, and containing the subscription "Which shall he drop, the gun or the pick?" signifying that unless an agreement can be reached the miner could be expected to resort to violence.

[22.] The above illustration and other similar illustrations your petitioners believe are relevant, material and most important to the present case as disproving the claim by the defendants herein set up in their answer, that they never countenanced, permitted or knew of violence or the destruction of life or property in the course of labor disputes.

22. That without the physical production at the trial of this case of the said files of the United Mine Workers' Journal it is impossible for plaintiffs adequately to present for the consideration of the jury the illustrations therein contained relative to the present case.

23. Your petitioners furthermore represent that if they be required, as part of the said depositions, to tran-
431 scribe into the record thereof such extracts from the United Mine Workers' Journal, the said convention proceedings and the said proceedings of the joint conventions comprising Exhibits 29, 30 and 31 as by present examination may be deemed relevant and material to the said case, they will be required to designate and transcribe many

hundred pages therefrom, a certain part of which, and perhaps a large part of which, by the development of the proceedings in the course of the said case may become unnecessary as a duplication or mere corroboration or as admitted by the defendants in connection with the establishment of the plaintiffs' case, whereas if the said volumes comprising Exhibits 29, 30 and 31 be produced by the defendants at the trial of the said case there can then be transcribed into the record of the said case only such parts of the said voluminous documents as ultimately appear to be necessary to establishment of the plaintiffs' case, all of which will result in a very great saving of labor and expense and in a very considerable probable diminution of the record of the present proceedings.

24. At the close of the said depositions, as appears by the record, counsel for defendants declined to any adjournment or reconvening of the said proceedings under any circumstances and declined to permit the witness Green further to testify therein, and advised the said witness Green in the course of his examination by counsel for the plaintiffs suddenly to absent himself from the said depositions.

Wherefore, your petitioners pray:

1. That an order be directed against the defendant John P. White, individually and as President of the United Mine Workers of America, requiring and directing the production, at the adjourned date of the said depositions
432 hereafter to be fixed, of all letters written to the said John P. White by Peter Stewart, Fred Holt and James Mullan, or any or either of them, or by any other officers or members of the United Mine Workers of America in District 21 United Mine Workers of America, between April 1, 1914, and January 1, 1915, and of all copies of any letters written by the said John P. White to any of the said persons during the said period.

2. That an order be directed to the United Mine Workers of America, defendant herein, and to John P. White, individually and as President of the United Mine Workers of America, defendant herein, to produce at the adjoined date of the said depositions hereafter to be fixed a certain letter dated November 2, 1914, from Secretary of Commerce and Labor, Hon. William B. Wilson, to John P. White, with enclosure, the latter being a copy of a letter from Franklin Bache, Receiver and plaintiff herein, to the Hon. Woodrow Wilson President of the United States.

3. That an order be issued to the United Mine Workers of America, defendant herein, and to John P. White, individually and as President of the United Mine Workers of America, and to Frank J. Hayes, individually and as Vice-President of the United Mine Workers of America, ordering and directing them and each of them to produce at the adjourned date of said depositions hereafter to be fixed the originals or copies of all reports of the organizers of the United Mine Workers of America made during the year 1914.

4. That an order be issued to United Mine Workers of America, defendant herein, and William Green, individually and as Secretary-Treasurer of the United Mine Workers of America, ordering and directing them and each of them to produce at the adjourned date of said depositions
433 hereafter to be fixed, transcripts in their several possessions of proceedings and minutes of the International Executive Board of the United Mine Workers of America during the period from April 1, 1914, to January 1, 1915.

5. That an order be issued and directed to United Mine Workers of America, defendant herein, and to John P. White, individually and as President of the United Mine Workers of America, and to William Green, individually and as Secretary-Treasurer of the United Mine Workers of America, ordering and directing them and each of them to produce at the trial of this case the files of the United Mine Workers' Journal for the years 1902 to April 26, 1917, inclusive, the same comprising defendants' Exhibits 31 of the said depositions.

6. That an order be issued and directed to United Mine Workers of America, defendant herein, and to John P. White, individually and as President of the United Mine Workers of America, and to Wiliam Green, individually and as Secretary-Treasurer of the United Mine Workers of America, ordering and directing them and each of them to produce at the trial of this case the printed volumes comprising Exhibits 29a to r (including 29h2), inclusive, said volumes containing the record of the proceedings of the annual and biannual conventions of the United Mine Workers of America from 1901 to 1916, inclusive.

7. That an order be issued and directed to United Mine Workers of America, defendant herein, and to John P. White, individually and as President of the United Mine Workers, and to William Green, individually and as Secretary-Treas-

urer of the United Mine Workers of America, ordering and directing them to produce at the trial of this case the
434 volumes comprising Exhibits 30a to h, inclusive, containing proceedings of the joint conventions of miners and operators of the four competitive states, Illinois, Indiana, Ohio and Western Pennsylvania, for the years 1901, 1903, 1906, 1908 and 1914.

8. That the court designate the date for the reconvening of said depositions in Indianapolis, Indiana, on September 1917, at 9 o'clock A. M., at which date the said documents above specified shall be produced.

9. That the court shall grant to your petitioners such other and further relief as in the premises may be deemed proper.

And your petitioners will ever pray, etc.

ROGER B. HULL
HENRY S. DINKER, JR.
JAMES B. McDONOUGH
Attorneys for Plaintiffs.

---

335 (Amended Petition for the Production of certain Documents and Papers at the Trial of the Case.)

Filed in U. S. District Court September 7, 1917.

Your petitioners, C. H. Finley and H. P. Hillard, respectfully represent:

1. That suit was brought by your petitioners as plaintiffs in the above entitled case, receives as therein entitled, against the defendants therein named for damages under the Sherman Anti-Trust Act as therein specified and set out, to which complaint the defendants, United Mine Workers of America, District No. 21 United Mine Workers of America, John P. White, individually and as President of the United Mine Workers of America, Frank J. Hayes, individually and as Vice-President of the United Mine Workers of America, William Green, individually and as Secretary-Treasurer of the United Mine Workers of America, and all the other associate and individual defendants therein named filed answers and the case was set for trial for October 16, 1917.

2. That on August 3, 1917, notice was duly served on Henry Warrum, attorney for the United Mine Workers of America, in the above entitled case for the taking before

William S. Garber, Notary Public, at the office of the said William S. Garber, 525 Lemcke Building, Indianapolis, Indiana, on August 15, 1917, of the depositions of John P. White and William Green, being defendants herein and being respectively, the President and Secretary-Treasurer of the United Mine Workers of America, defendants herein, service of which notice was accepted by the said Henry Warrum on said August 3, 1917.

3. That by agreement between counsel for the plaintiffs and said Henry Warrum, counsel for the defendants,
436 the date for taking said depositions was changed, first to August 13th and subsequently to August 20th.

4. That on August 20th, pursuant to said notice and agreed adjournment counsel for plaintiffs appeared at the place for the taking of said depositions which by agreement between counsel was changed to the office of the United Mine Workers of America, defendant, Merchants National Bank Building, Indianapolis, Indiana, at which place on August 20, 1917, at 9 o'clock A. M. there appeared as representing the said defendants, Henry Warrum, Esquire, and Love Grant, Esquire, counsel for the defendants, whereupon counsel for the plaintiffs proceeded to take the depositions of the said John P. White and William Green, the taking of the said depositions occupying the two days, August 20th and 21st, 1917.

5. A copy of said depositions as furnished by the Notary taking the same is annexed to this petition.

6. In the course of the said depositions it appeared from the testimony of the said John P. White, as shown on pages 289 to 300 and page 313 of the copy hereto annexed, that the said John P. White had in his possession in the office of the United Mine Workers of America, where the said depositions were then being taken, certain correspondence which had passed between the said John P. White and Peter Stewart, and Fred Holt and James Mullan, who were in the year 1914, when the present cause of action arose, respectively, President of District 21 United Mine Workers of America, Secretary-Treasurer of District 21 United Mine Workers of America, and International Executive Board member for District 21 United Mine Workers of America, said correspondence having passed between the said parties be-
437 tween April 1, 1914, and January 1, 1915. The said John P. White refused to produce the said correspondence, and stated that he would decline to do so except on order of the court.

7. The said correspondence having passed between the President of the United Mine Workers and the officers of the United Mine Workers of America in District 21 during the period when the matters were occurring giving rise to the present case and immediately subsequent thereto is believed by your petitioners to be material, relevant and is most important in connection with the present cause of action.

8. In the course of the said depositions the said John P. White produced from his files at the request of counsel for the plaintiff a copy of a certain letter dated November 4, 1914, written by him, the said John P. White, to the Hon. William B. Wilson, Secretary of Commerce and Labor, and as shown on pages 321 and 322 of the said depositions. The said John P. White offered in evidence his said reply to William B. Wilson dated November 4, 1914, but refused to permit the stenographer to mark for identification the letter from the Hon. William B. Wilson to John P. White, dated November 2, 1914, with enclosed copy of letter from Franklin Bache, then receiver of the plaintiff companies, to Hon. Woodrow Wilson, President of the United States, or to produce the same or permit the same to be transcribed on the record in the depositions in this case.

9. Your petitioners believe that the letter from the said Hon. William B. Wilson to the said John P. White, with enclosure as stated, is relevant, material and most important in connection with the liability of the United Mine Workers of America for the acts of the members thereof forming the basis of the present suit.

438 10. In the course of the said depositions the said John P. White further stated that there were in the files of the United Mine Workers of America under the immediate supervision and control of Frank J. Hayes, Vice President of the said United Mine Workers of America, defendant herein, but under the ultimate control of the said John P. White as President of the United Mine Workers of America, reports of the organizers of the United Mine Workers of America for the year 1914, it appearing from the said depositions, as shown on pages 301-302, of the copy hereto annexed that the said reports were then in the office of the United Mine Workers of America, where the said depositions were being taken.

11. The said John P. White, however, refused to produce or cause to be produced the said organizers' reports for the year 1914 except on order of the court. Your petitioners believe that the said organizers' reports are relevant, material and most important in connection with the liability of the de-

fendants herein for the acts complained of in this case in that they will show the activities of the organizers of the United Mine Workers of America during the period when the acts herein complained of were being done.

12. In the course of the said depositions as will appear on pages 302-310 of the copy hereto annexed, it appeared from the testimony of the said John P. White that he had in his possession and control a typewritten transcript of the minutes and proceedings of the International Executive Board of the United Mine Workers of America for the year 1914, and that the said William Green, Secretary-Treasurer, had, as custodian thereof, another transcript of the said proceedings of the said International Executive Board for the said period.

439 13. The said John P. White and the said William Green each refused to produce the said transcript of the said minutes of the said International Executive Board for the said period or to permit the same to be marked for identification, or to enable the plaintiffs to offer the same or any part thereof in evidence.

14. Your petitioners believe that the said minutes of the said International Executive Board are relevant, material and most important in connection with the cause of action in this case in that they are the record of the proceedings of the International Executive Board of the United Mine Workers of America during the period immediately preceding, covering and immediately following the acts forming the cause of action in the present case.

15. During the course of the said depositions, as appears on pages 12-13 thereof, counsel for the defendants, Henry Warrum and Love Grant, entered into an agreement with counsel for the plaintiffs, Henry S. Drinker, Jr., which said agreement was then and there by mutual consent entered by the stenographer taking the said depositions in the record thereof as appears on pages 12-13 of the copy of said record hereto annexed, by the terms of which said agreement it was agreed by counsel for the United Mine Workers of America that they would produce at the trial of this case in Fort Smith, Arkansas, the files of the United Mine Workers' Journal, official organ of the said United Mine Workers of America, for the years 1907 to 1914, inclusive, the said files for said years to be produced at the said trial on any day in the course of which counsel for the plaintiffs should give reasonable notice to
440 counsel for the defendants that the same would be required, the same to be held for use of the trial for a period not to exceed ten days.

16. Subsequently, on the second day of the taking of said depositions, as appears from pages 207 to 209 of the copy hereto annexed, counsel for defendants without cause or reason declined to comply with the terms of said agreement.

Thereafter there was produced by the witness Green, Secretary-Treasurer as aforesaid, from the files of the United Mine Workers of America printed bound volumes comprising the files of the United Mine Workers' Journal, official organ of the United Mine Workers of America, for the period from January 1, 1892, to April 26, 1916, inclusive, which said volumes were marked for identification by the stenographer taking the said depositions, Exhibits 31a to z, all letters inclusive, and 31aa, 31bb, and 31cc, all of which were offered in evidence by counsel for the plaintiffs, as appears on page 342.

During the course of the said depositions there was further produced on call by counsel for the plaintiffs by William Green, Secretary-Treasurer as aforesaid, from the files of the United Mine Workers of America printed volumes containing the printed proceedings of the various conventions of the United Mine Workers of America containing the annual and bi-annual reports of the officers thereof for the years 1901 to 1916, inclusive, which said volumes were marked by the stenographer Exhibits 29a to r, inclusive, and offered in evidence by counsel for the plaintiffs, as appears on page 327 of the copy of said depositions hereto annexed.

18. In the course of the said depositions there were further produced by the said William Green, Secretary-Treasurer as aforesaid, on call of counsel for the plaintiffs from the
441 files of the United Mine Workers of America eight printed volumes identified by the said Green as containing the printed proceedings of the Joint Conventions of the coal operators from the four competitive states, Illinois, Indiana, Ohio and Western Pennsylvania, for the years 1901, 1902, 1903, 1904, 1906, 1908, 1910, 1912, 1914 and 1916, which said volumes were marked by the stenographer Exhibits 30a to h, inclusive, and were offered in evidence by counsel for the plaintiffs, as appears from pages 206 and 245 of the copy of said depositions hereto annexed.

19. After the offer in evidence of the said three Exhibits 29, 30 and 31, as above stated, counsel for the plaintiffs adjourned the taking of the said depositions for the reasons stated by counsel for the plaintiffs on pages 333 and 334 of the copy of said depositions hereto annexed, in order to secure an order of court for the production of the documents refused to be produced by the said witnesses above set out, and

also in order to give counsel for the plaintiffs an opportunity to examine the voluminous documents offered in evidence in order to determine what extracts therefrom would be material to the present proceedings that the same might be specified and placed on the record of the said depositions.

20. Counsel for the defendants thereupon refused on behalf of the defendants to permit the said volumes so offered in evidence to be attached to the said depositions, as appears on the copy of said depositions, page 346, and further stated that the said documents would not be available to counsel for the plaintiffs on any adjournment of the said depositions.

21. That an inspection of the files of said United Mine Workers' Journal shows that the same, as stated by
442 counsel for the defendants, are very voluminous covering many hundred pages of printed matter, and that the said volumes contain certain illustrations illustrating the functions and activities of the United Mine Workers of America, whose official organ the said Journal is, which are relevant and material to the case at bar; for example, on page 1 of the issue of the United Mine Workers' Journal for July 16, 1914, the day prior to the destruction by the defendants herein of the mines and tipples of the plaintiffs forming a part of the basis of the present cause of action, there is a large illustration showing a miner standing outside a conference hall, in which there are presumably engaged in conference representatives of the miners and operators, holding in one hand a miner's pick and in the other a gun, and containing the subscription "Which shall he drop, the gun or the pick?" signifying that unless an agreement can be reached the miner could be expected to resort to violence.

22. The above illustration and other similar illustrations your petitioners believe are relevant, material and most important to the present case as disproving the claim by the defendants herein set up in their answer, that they never countenanced, permitted or knew of violence or the destruction of life or property in the course of labor disputes.

22. That without the physical production at the trial of this case of the said files of the United Mine Workers' Journal it is impossible for plaintiffs adequately to present for the consideration of the jury the illustrations therein contained relative to the present case.

23. Your petitioners furthermore represent that if they be required, as part of the said depositions, to transcribe into the

record thereof such extracts from the United Mine
443 Workers' Journal, the said convention proceedings and the said proceedings of the joint convention comprising Exhibits 29, 30 and 31 as by present examination may be deemed relevant and material to the said case, they will be required to designate and transcribe many hundred pages therefrom, a certain part of which, and perhaps a large part of which, by the development of the proceedings in the course of the said case may become unnecessary as a duplication or mere corroboration or as admitted by the defendants in connection with the establishment of the plaintiffs' case, whereas if the said volumes comprising Exhibits 29, 30 and 31 be produced by the defendants at the trial of the said case there can then be transcribed into the record of the said case only such parts of the said voluminous documents as ultimately appear to be necessary to the establishment of the plaintiffs' case, all of which will result in a very great saving of labor and expense and in a very considerable probable diminution of the record of the present proceedings.

24. At the close of the said depositions, as appears by the record, counsel for defendants declined to [—] any adjournment or reconvening of the said proceedings under and circumstances and declined to permit the witness Green further to testify therein, and advised the said witness Green in the course of his examination by counsel for the plaintiffs, suddenly to absent himself from the said depositions.

Wherefore, your petitioners pray:

1. That an order be directed against the defendant John P. White, as President of the United Mine Workers of America, requiring and directing the production, at the ad-
444 journed date of the said depositions hereafter to be fixed, of all letters written to the said John P. White by Peter Stewart, Fred Holt, and James Mullen, or any or either of them, between April 1, 1914 and January 1, 1915, and of all copies of any letters written by the said John P. White to any of the said persons during the said period.

2. That an order be directed to the United Mine Workers of America, defendant herein, and to John P. White, as President of the United Mine Workers of America, defendant herein, to produce at the adjourned date of the said depositions hereafter to be fixed a certain letter dated November 2, 1914, from Secretary of Commerce and Labor, Hon. William B. Wilson, to John P. White, with enclosure, the latter being a copy of a letter from Franklin Bache, Receiver and plaintiff

herein, to the Hon. Woodrow Wilson, President of the United States.

3. That an order be issued to the United Mine Workers of America, defendant herein, and to John P. White, as President of the United Mine Workers of America, and to Frank J. Hayes, individually and as Vice-President of the United Mine Workers of America, ordering and directing them and each of them to produce at the adjourned date of said depositions hereafter to be fixed the originals or copies of all reports of the organizers of the United Mine Workers of America made during the year 1914.

4. That an order be issued to United Mine Workers of America, defendant herein, and William Green, as Secretary-Treasurer of the United Mine Workers of America, ordering and directing them and each of them to produce at the adjourned date of said depositions hereafter to be fixed,
445 transcripts in their several possessions of proceedings and minutes of the International Executive Board of the United Mine Workers of America during the period from April 1, 1914, to January 1, 1915.

5. That an order be issued and directed to United Mine Workers of America, defendant herein, and to John P. White, as President of the United Mine Workers of America, and to William Green, individually and as Secretary-Treasurer of the United Mine Workers of America, ordering and directing them and each of them to produce at the trial of this case the files of the United Mine Workers Journal for the years 1892, to April 26, 1917, inclusive, the same comprising defendants' Exhibit 31 of the said depositions.

6. That an order be issued and directed to United Mine Workers of America, defendant herein, and to John P. White, as President of the United Mine Workers of America, and to William Green, as Secretary-Treasurer of the United Mine Workers of America, ordering and directing them and each of them to produce at the trial of this case the printed volumes comprising Exhibits 29a to r (including 29h), inclusive, said volumes containing the record of the proceedings of the annual and bi-annual conventions of the United Mine Workers of America from 1901 to 1916, inclusive.

7. That an order be issued and directed to United Mine Workers of America, defendant herein, and to John P. White, as President of the United Mine Workers, and to William Green, as Secretary-Treasurer of the United Mine

Workers of America, ordering and directing them to produce at the trial of this case the volumes comprising Exhibits 30a to h, inclusive, containing proceedings of the
446 joint conventions of miners and operators of the four competitive states, Illinois, Indiana, Ohio and Western Pennsylvania, for the years 1901, 1902, 1903, 1904, 1906, 1908, 1910, 1912, 1914 and 1916.

8. That the court designate the date for the reconvening of said depositions in Indianapolis, Indiana, on September 24th, 1917, at 9 o'clock a. m. at which date the said documents above specified shall be produced.

9. That the court shall grant to your petitioners such other and further relief as in the premises may be deemed proper.

And your petitioners will ever pray, etc.

ROGER B. HULL
HENRY S. DRINKER JR.
JAMES B. McDONOUGH
Attorneys for Plaintiffs.

---

447 (Answer to Amended Petition for the Production of Certain Documents and Papers at the Trial of the Case.)

Filed in U. S. District Court September 14, 1917.

The United Mine Workers of America, appearing under protest, John P. White, individually and as President of the United Mine Workers of America; Frank J. Hays, individually and as Vice President of the United Mine Workers of America, and William Green, individually and as Secretary-Treasurer of the United Mine Workers of America, for answer to the amended petition of C. H. Finley and H. P. Hilliard, Receivers, say:

(1) That the plaintiffs in the above entitled cause are not entitled to an order requiring these defendants to produce for inspection any documents sought by them before the trial of said cause, under the decision of the Supreme Court of the United States in the case of Carpenter vs. Winn, 221 U. S. 533.

(2) The plaintiffs are not entitled to compel the defendants to produce, either at or before the trial of said cause, any of the documents sought by them, under the decision of Cassatt vs. Mitchell Coal & Coke Co. 150 Fed. 32.

(3) The prayer of the petitioners that John P. White be required to produce for inspection of the plaintiffs "all letters written to said White, or to any other officer or member of the United Mine Workers of America by Peter Stewart, Fred Holt and James Mullen, or either of them, or by any other officer or member of the United Mine Workers of America in District 21, between April 1, 1914 and January 1, 1915, and all copies of letters written by said White
448 or any other officer or member of the United Mine Workers of America, to any of the said persons or to any of the said [offers] or members of the United Mine Workers of America in District 21," should be refused for the reason that said request is not sufficiently definite and certain, that it fails to point out or designate any particular letter or letters, or copies thereof, that it nowhere appears in said petition that said White had possession or custody of any other letters or correspondence than that directed to him, or that he controls or has custody of any letters written to other officers of the United Mine Workers of America or other members of said organization; that it nowhere appears in said petition that any of said letters which the plaintiffs so seek to have produced, contain any evidence material, relevant or competent to the trial of the issues in the above cause, but that the said petition discloses on its face, in the matter of this request, that it is a fishing expedition entered upon by the plaintiffs without any knowledge of the character of the documents sought, or any information concerning the same, but is an effort to secure the aid of the court to enable the plaintiffs to conduct a promiscuous and general examination of the files of the defendants in the hope that they may discover some evidence.

(4) That upon the taking of the deposition of John P. White at Indianapolis by the plaintiffs on the date referred to in the said petition, John P. White produced and permitted the inspection and introduction in evidence, as part of his examination by the plaintiffs, of the letters specifically called for by them, one being dated November 4, 1914, written to W. B. Wilson, and the other being dated March 3, 1917, written to President Wilson, but that he declined to produce for plaintiffs' inspection and introduction in evidence in said deposition, the letters of Franklin Bache,
449 written October 21, 1914, to president Wilson, and the letter of November 2, 1914, written to said White by W. B. Wilson, a member of the President's Cabinet, for the reason that said Bache had written said letter, after the commencement of this suit against the defendants, for the

purpose of serving his own ends, and that neither his letter nor the letter of said W. B. Wilson predicated thereon, constituted any proper or competent testimony against these defendants in the trial of said cause, and counsel for said defendants now offer to submit said letters of Bache and W. B. Wilson to the court for its inspection and to the end that it may make its proper order in relation to compelling the production and submission of said letters by the defendants in evidence.

(5) That Frank J. Hays, as Vice President of the United Mine Workers of America, receives and has official charge of all reports of International Organizers for the said United Mine Workers of America; that said reports are not allowed to long accumulate in the files of the said office but are from time to time collected and destroyed; that the depositions of William Green and John P. White do not show that said reports are in existence, but do show that they are left in the custody of said Vice President; and counsel for defendants now submit herewith, attached to and made a part of this answer as Exhibit "A", the affidavit of the said Frank J. Hays to the effect that all reports of International Organizers for the year 1914, and for all previous years, have been long since destroyed, that he had never received during the year 1914 any reports from International Organizers relating to the controversy between the plaintiff companies and the miners in Sebastian County, Arkansas; that no International Organizer had authority to take part in said controversy or represent the International Union therein,
450 and that the International Union and its officers had never exercised any jurisdiction, control or direction over said controversy.

(6) That the minutes of the meetings of the International Executive Board for the year 1914 are in the possession of said John P. White and William Green, as President and Secretary, respectively, of the United Mine Workers of America that plaintiffs are not entitled to an order requiring these defendants to produce said documents for inspection either now or at the trial of said cause; that their application therefore fails to designate or set out what particular meeting of said Board is intended whereof the minutes are sought; that no effort has been made to show that said minutes contained any matters pertaining to the issues in the above cause; that said minutes do not contain any evidence or proof relevant to said cause or the issues therein, and that the efforts of the plaintiffs herein are to secure the aid of the court in enabling them to enter upon a fishing expedi-

tion and without reason therefor explore the files and records of these defendants.

(7) That the prayer of the plaintiffs for an order requiring the defendants to produce the files of the United Mine Workers Journal for the years 1902 to April 26, 1917, inclusive, ought not to be granted for the reason that it appears from the deposition of William Green, copy of which is submitted to the court, that said Journal is a newspaper published weekly, which is not required to be taken by members of the Union, whose subscription thereto is voluntary and not compulsory, that many members do not subscribe for said Journal; that it contains in addition to the official notices and orders which appear therein from time to time, signed by the International Officers, news, advertisements,
451 correspondence, editorials, contributions, cartoons, fiction and other matters common to newspapers and intended to be of particular interest to the Mine Workers craft, the policy of editing which is left in the hands of an editor employed at a salary; that said Journal does not constitute proper or competent evidence upon any of the issues in said cause, and the plaintiffs have not pointed out or designated any proper or competent use that can be made of the same; that the statement in said petition that the cartoon of July 16, 1914, has a suggestion of the violence alleged to have occurred on July 17, 1914, at Prairie Creek, Arkansas, obviously is not competent to bind the defendants in any way, and bears on its face and by its date the conclusive inference that it could not have reached the miners at Prairie Creek by July 17th.

The defendants further say, that it appears from the petition and the copy of the deposition submitted by plaintiffs therewith, that at the taking of the deposition of William Green the defendants offered to produce and produced said files of the Mine Workers Journal to be used by the plaintiffs in connection with said examination, and the plaintiffs thereupon offered said files to the notary taking said deposition, by reason of which facts plaintiffs are not entitled to any further or other order regarding the inspection of said files.

The defendants further say that the plaintiffs are not entitled to said order, because it nowhere appears in their petition that the defendants are the sole source of such information, but on the contrary, counsel for defendants sug-

gest that an inquiry will disclose that said files may be found in many other places.

(8) With reference to the printed volumes containing the proceedings of the annual and bi-annual conventions of the United Mine Workers of America, the defendants
452 say that the court should not order the defendant's to produce said books for inspection before or at the trial, for the reason above given; further, that the plaintiffs failed to show wherein said books and reports will afford them any evidence whatsoever, nor do they show the court that said printed books are in the sole custody of the defendants that they cannot be otherwise secured.

(9) With reference to the printed volumes containing proceedings of the joint conventions of Miners and Operators of the four competitive states, Illinois, Indiana, Ohio and Western Pennsylvania, for the years 1901 to 1916, inclusive, the defendants say that the plaintiffs are not entitled to an order requiring defendants to produce said books at or before the trial of said cause, for all of the reasons above given.

(10) That insofar as the plaintiffs, by their petition, seek an order of court fixing a date for the reconvening of the taking of said depositions, the defendants say that said order ought not to be granted for the following reasons: Said depositions were taken, not on commission by this court, but on order before a notary selected by the plaintiffs, who is not subject to the jurisdiction of this court; that the taking of the depositions was terminated on September 21, 1917, without either an agreement for continuing the same or any adjournment from day to day, or otherwise; that it nowhere appears in the petition that there is any reason for requiring defendants White and Green to resubmit to the examination by these plaintiffs, except in the matter of the production of these certain documents, which the plaintiffs are not entitled to have produced, or which, in any event, should not be ordered produced before the trial of said cause.

Wherefore, defendants pray for an order dismissing
453 said petition.

HENRY WARRUM
COVINGTON & GRANT
Attorneys for Defendants.

Exhibit "A."

(Affidavit of Frank J. Hayes as to the Destruction of all Reports of the International Organizers for the year 1914.)

Frank J. Hayes being duly sworn says that he is vice-president of the United Mine Workers of America; that his office, together with the other offices of the International Union are located at Indianapolis, Indiana; that he receives and has custody of reports from International organizers; that all reports for International organizers in all parts of the United States for the year 1914, have long since been destroyed; that he has no reports of International organizers for the year 1914 or before said date; that he received no report from any International organizer in the year 1914, in relation to the controversy between the plaintiff companies and the miners at or about Prairie Creek, Sebastian County, Arkansas, and that no International organizer had any authority or direction to represent the International Union at that point; that the International Union and its officers never exercised any jurisdiction or control over the controversy between the plaintiff companies and the miners aforesaid either directly or indirectly.

FRANK J. HAYES.

State of Indiana
County of Marion.

Subscribed and sworn to by the above named Frank J. Hayes before me a notary public in and for said County and State this 8th day of September, 1917.

(Notarial Seal)

A. O. SCHWENK,
Notary Public.

My Commission Expires Nov. 30, 1919.

---

454 (Order, September 14, 1917, of the submission of Amended Petition for the production of papers at trial, etc.)

Before Judge Youmans.

This day come plaintiffs by Henry S. Drinker, Jr., and James B. McDonough, their attorneys, and come defendants by Henry Warrum and G. L. Grant, their attorneys, and defendants United Mine Workers of America and others file answer to the amended petition of the plaintiffs for production of records and documents.

Whereupon, came on to be heard the amended petition of plaintiffs for production of records and documents, which was argued and submitted.

---

455 (Order, September 18, 1917, overruling Amended Petition to Produce, etc.)

Before Judge Youmans.

This day come the plaintiffs by James B. McDonough, their attorney, and come the defendants by G. L. Grant, their attorney. Plaintiffs' amended petition for production of records and documents heretofore argued and submitted having been duly considered, the court being now well and sufficiently advised in the premises doth overrule said motion. To the action of the court in overruling said motion plaintiffs duly excepted at the time.

---

456 Petition to Require Defendants to Produce Certain Documents at Trial.

Filed in U. S. District Court September 20, 1917.

Your petitioners, C. H. Finley and H. P. Hilliard, respectfully represent:

1. That suit was brought by your petitioners as plaintiffs in the above entitled cause, receivers as therein entitled, against the defendants therein named for damages under the Sherman Anti-Trust Act, as herein specified and set out, to which complaint the defendants, United Mine Workers of America, District No. 21 United Mine Workers of America, John P. White, individually and as President of the United Mine Workers of America, Frank J. Hayes, individually and as Vice-President of the United Mine Workers of America, William Green, individually and as Secretary-Treasurer of the United Mine Workers of America, and all other associate and individual defendants therein named filed answers and the case was set for trial for October 16, 1917.

2. That on August 3, 1917, notice was duly served on Henry Warrum, attorney for the United Mine Workers of America, in the above entitled case for the taking before William S. Garber, Notary Public, at the office of the said William S. Garber, 525 Lemcke Building, Indianapolis, Indiana, on August 15, 1917, of the depositions of John P. White and William Green, being defendants herein and being respectively, the President and Secretary-Treasurer of the

United Mine Workers of America, defendants herein, service of which notice was accepted by the said Henry Warrum on said August 3, 1917.

3. That by agreement between counsel for the plain-
457 tiffs and said Henry Warrum, counsel for the defend-
ants, the date for taking said depositions was changed, first, to August 13th, and subsequently to August 20th.

4. That on August 20th, pursuant to said notice and agreed adjournment counsel for plaintiffs appeared at the place for the taking of said depositions which by agreement between counsel was changed to the office of the United Mine Workers of America, defendant, Merchants National Bank Building, Indianapolis, Indiana, at which place on August 20, 1917, at 9 o'clock A. M. there appeared as representing the said defendants, Henry Warrum, Esquire, and Love Grant, Esquire, counsel for the defendants, whereupon counsel for the plaintiffs proceeded to take the depositions of the said John P. White and William Green, the taking of the said depositions occupying the two days, August 20th, and 21st, 1917.

5. A copy of said depositions as furnished by the notary taking the same is annexed to this petition.

6. In the course of the said depositions it appeared from the testimony of the said John P. White, as shown on pages 289 to 300 and page 313 of the copy hereto annexed, that the said John P. White had in his possession in the office of the United Mine Workers of America, where the said depositions were then being taken, certain correspondence which had passed between the said John P. White and Peter Stewart, and Fred Holt and James Mullen, who were in the year 1914, when the present cause of action arose, respectively, President of District 21 United Mine Workers of America, Secretary-Treasurer of District 21 United Mine Workers of America, and International Executive Board member for District 21, United Mine Workers of America, said correspondence having passed between the said parties between April 1,
458 1914, and January 1, 1915. The said John P. White refused to produce the said correspondence, and stated that he would decline to do so except on order of the court.

7. Your petitioners on behalf of themselves as Receivers of all of the plaintiffs and on behalf of the plaintiffs allege that the correspondence referred to in paragraph 6 above is pertinent and relevant to the issues in this cause. The said correspondence passed between the defendant, John P. White, representing the United Mine Workers of America, the de-

fendants, and Peter Stewart, who was President of District No. 21 and who is a defendant in this cause, and Fred Holt, who was Secretary of District 21 and who represented said District No. 21 of the United Mine Workers of America and James Mullen, who was at that time the Board member of the National organization of the United Mine Workers of America. Your petitioners, being all the plaintiffs herein allege that said correspondence took place between the dates of April 1, 1914 and January 1, 1915. Your petitioners further allege that under the rules, customs, usages and [practises] of the United Mine Workers of America, including the officers of the National or International, as well as the officers of District 21, the business necessarily discussed between said officials by correspondence was the matter relating to a so-called strike at the mines of the corporations that are plaintiffs herein, or some of them and further that during said time a most serious question was being discussed as to whether the said United Mine Workers of America would permit a non-union mine to be opened and operated by the corporations and coal companies that are plaintiffs herein. Your petitioners allege that under the by-laws, constitution and usages of said United Mine Workers of America, the said officers had jurisdiction of the subject matter of whether a non-union mine
459 should be permitted to exist in said District 21 and your petitioners believe and allege that said correspondence discussed the facts as to whether said non-union mines should be permitted to be opened and as to whether the same would be opened. Your petitioners believe and allege that the said correspondence will fully disclose the facts and show the relation and bearing and attitude of the defendants to the opening up of said non-union mine and your petitioners believe and allege that said correspondence will tend to show that the defendants, the United Mine Workers of America were engaged in a conspiracy to prevent said non-union mines from being opened up and therefore said evidence is pertinent and relevant as tending to support the allegations of the complaint herein.

Your petitioners allege that said correspondence is in the possession and under the control of the United Mine Workers of America, and the same can be produced by the defendants at the trial of this cause without expense to said defendants.

8. In the course of the said depositions as will appear on pages 302-310 of the copy hereto annexed, it appeared from the testimony of the said John P. White that he had in his possession and control a typewritten transcript of the minutes and proceedings of the International Executive Board of the

United Mine Workers of America, for the year 1914, and that the said William Green, Secretary-Treasurer, had, as custodian thereof, another transcript of the said proceedings of the said International Executive Board for the said period.

9. The said John P. White and the said William Green, each refused to produce the said transcript of the said minutes of the said International Executive Board for the said period referred to in paragraph 8, and still refuse to
460 produce the same at the trial of this cause. Your petitioners allege that they desired said transcript of said minutes to be attached as exhibits to the evidence of said witnesses, John P. White and William Green, to the end that said minutes might be present at the trial of this cause. Your petitioners allege that they are entitled to have the said minutes referred to and described in paragraph 8 above, produced at the trial of this cause. Your petitioners allege that the said minutes of said International Executive Board, which Board represents the United Mine Workers of America show the proceedings of said Board in the year 1914 and show what action, if any, the United Mine Workers of America, took with reference to the opening up of the mines of the plaintiff corporations with non-union labor. Your petitioners believe and allege that said minutes will tend to prove the allegations of the complaint and will tend to show that the defendants were engaged in the conspiracy to prevent the plaintiffs from opening up their mines upon a non-union basis. Your petitioners allege that said minutes of said proceedings can be produced by the defendants at the trial of this cause. Your petitioners allege that said minutes are relevant and pertinent to the issues involved in this cause.

Your petitioners further allege that the said Executive Board of the United Mine Workers of America is one of the governing and controlling bodies of the defendants and has said minutes covering the period during which the plaintiffs allege there exist the conspiracy by the defendants to injure and damage the plaintiffs. The said evidence is therefore important, material and pertinent, as the plaintiffs believe that it tends to prove the allegations of the complaint.

10. Your petitioners believe that the said minutes of
461 the said International Executive Board are relevant, material and most important in connection with the cause of action in this case, in that they are the record of the proceedings of the International Executive Board of the United Mine Workers of America, during the period immediately preceding, covering and immediately following the acts forming the cause of action in the present case.

11. Your petitioners further aver that the volume of the United Mine Workers Journal for the year 1914, produced by the said witness, Green, and [offiered] in evidence, in the course of said deposition, as appears from page 342 thereof, states that meetings of the said International Executive Board were held during said period as follows:

May 4, or May 7, at Indianapolis;

July 2 or July 3, at Kansas City;

August 10 or August 17 to 22, at Indianapolis;

November 16 to 21, at Philadelphia;

November 30, at Indianapolis.

From the said report in the said Journal, under date July 2, and July 9, page 4, it further appears that the said July meeting was called for the said Board to consider the strikes of the Union then in progress throughout the country. As the strike forming the basis of the present suit was then in progress and near its culmination the importance of the said meeting of July 2, as well as the other meetings during the period of the said strike and immediately following the same is evident.

The plaintiffs believe and allege that the volume of the United Mine Workers Journal for the year 1914 contains editorials, correspondence, cartoons, illustrations, and pictures tending to show and that do show that the defendants were engaged in a conspiracy to prevent the plaintiff corporations from opening up any mine with non-union labor. The said volume of said Journal is therefore relevant, pertinent
462 and material as the plaintiffs believe and the same will support the allegations of the complaint herein.

12. Your petitioners further allege that the defendants published a journal known as the United Mine Workers Journal, which said Journal is a weekly newspaper and is the official organ of the United Mine Workers of America, the defendants. As is shown by the depositions which were taken at Indianapolis as above set forth, the defendant, John P. White and the United Mine Workers of America have in their possession complete files of said Journal. beginning with the years 1892 and including the year 1916. The said Journals are now in the possession of said defendants, the United Mine Workers of America. Your petitioners allege that the files of said Journal contain editorials which declare and announce the principles of the organizatioon of the United Mine Workers of America. The said Journals also contain communications

from the officers of the United Mine Workers of America and from their employees, including their publicity agents, the Board members and organizers and all of these editorials, publications, communications, express and show the principles of the United Mine Workers of America, and fully and clearly show the attitude of the defendants toward the establishing of mines with non-union labor. The plaintiffs believe and allege that said Journals also contain cartoons, pictures and other illustrations illustrating, showing and establishing the attitude of defendants toward mines that are operated with non-union labor. Your petitioners believe and allege that the editorials, communications, statements, cartoons, pictures and other illustrations of the files of said Journals will tend to prove the allegations in the complaint, showing a conspiracy on the part of the defendants to prevent by force, if
463 need be, the operation of any coal mine with non-union labor.

Your petitioners further allege that they cannot designate all of the articles, editorials, communications and pictures and illustrations, because the same are numerous and extend over the years from 1892 to 1916 inclusive. Your petitioners allege that the files of said paper are in the possession of the defendants and under their control and they are now at the City of Indianapolis in the State of Indiana. Your petitioners believe and allege that the files of said Journal will show that the defendants, the United Mine Workers of America are bitterly opposed to the establishment of any coal mine with non-union labor and will also tend to show that the allegations of the complaint, charging a conspiracy herein are true. Your petitioners, therefore, allege that said files of said paper are relevant, pertinent and material to the issues herein.

Your petitioners further allege that they have made an effort to get the complete files of said paper from the defendants, and the defendants refuse to permit the plaintiffs to have the same, and now refused to have the same present in court at the trial of this cause, although counsel for the defendants, during the early part of the taking of the depositions at Indianapolis substantially agreed that they would have the files of said paper present at the trial, but now decline and refuse so to do. Your petitioners allege that it will not be expensive to have said Journal transported to Fort Smith, to have same at the trial, and your petitioners are willing to bear the expense of transporting said files as well as all the other documents herein called for from the place where they now are to the City of Fort Smith, in the State of Arkansas, for the use at the trial of this cause. Your petitioners are un-

able to set out more in detail the particular editorials,
464 communications, cartoons and pictures in said Journal for the reason that the defendants refuse to permit any further examination of the same at Indianapolis than is disclosed in the application heretofore filed.

Wherefore your petitioners pray:

1. That an order be directed against the defendant, United Mine Workers of America, and defendant John P. White, as President of the United Mine Workers of America, requiring and directing the production, at the trial of this case of all letters in possession or under control of the said John P. White, written to the said John P. White by Peter Stewart, Fred Holt, and James Mullen or any or either of them, between April 1, 1914 and January 1, 1915, and of all copies of all letters in possession or under the control of the said John P. White, written by the said John P. White to any of the said persons during the said period.

2. That an order be directed to the United Mine Workers of America, defendant herein, and to John P. White, as President of the United Mine Workers of America, defendant herein, and to William Green, Secretary-Treasurer of the United Mine Workers of America, defendant herein, and to each of them, ordering and directing each of them to produce at the trial of this cause transcripts in their possession of proceedings of minutes of the International Executive Board of the United Mine Workers of America, during the period from April 1, 1914 to January 1, 1915.

3. That an order be entered directing the defendants, the United Mine Workers of America and John P. White, President and William Green, Secretary of the defendants, to produce at the trial of this cause the printed and bound volumes of the United Mine Workers Journal for the period be-
465 ginning January 1, 1892, down to and including April 26, 1916.

4. That the court grant to your petitioners all other and further relief to which they are entitled by reason of the facts above set forth, and which shall be deemed proper in the premises. And your petitioners will ever pray.

ROGER B. HULL,
HENRY S. DRINKER,
JAMES B. McDONOUGH,
Attorneys for Petitioners.

Affidavit.

I, Clyde H. Finley, one of the plaintiffs in the above entitled cause, on oath state that I have read over the above and foregoing petition, and the matters and things set forth in said petition, so far as my personal knowledge goes, are true and those things which are not known to me to be true are believed to be true.

CLYDE H. FINLEY.

Subscribed and sworn to before me this 20th day of September, 1917.

(Notarial Seal) D. E. GUSTAFSON,
Notary Public.

My commission expires March 22-1920.

Certificate.

I, James B. McDonough, do hereby certify that I am one of the attorneys of the plaintiffs in the above entitled cause.

I further certify that I am familiar with the complaint and the answer in this cause, and I therefore, certify that in my opinion the matters and things called for in the above and foregoing petition are relevant, pertinent and material to the trial of this cause.

JAMES B. McDONOUGH,
Attorney for Plaintiffs.

---

466 (Response to Petition to require Defendants to produce papers, etc.)

Filed in U. S. District Court September 20, 1917.

The United Mine Workers of America appearing under protest and protesting against the jurisdiction of this court, and John P. White as President of the United Mine Workers of America, for response to the petition asking for the production of certain books, papers and documents referred to in the petition say:

They deny that the question of a so-called strike in District 21 in the year 1914 was discussed by letter, or otherwise, between District 21, or P. R. Stewart, or Fred Holt, or James Mullen, and the United Mine Workers of America, or John P. White as President thereof, or William Green as Secretary-Treasurer thereof, and deny that the United Mine Workers of America has in its possession or under its control, or in the possession or under the control of any of its officers, any such correspondence.

They deny that they have in their possession or under their control, any typewritten transcript of the minutes and proceedings of the International Executive Board of the United Mine Workers of America for the year 1914 which relates to the so-called strike or to the troubles in the vicinity of Prairie Creek in the year 1914.

They further state that there are no minutes of the Executive Board meeting relative and pertinent to the issues involved in this cause.

They deny that there is anything contained in the published journal referred to in the petition that is pertinent or relevant to the issues involved in the cause.

They further state that the plaintiffs in the above entitled cause are not entitled to an order requiring these de-
467 fendants to produce at the trial any documents sought by them under the decision of the Supreme Court of the United States in the case of Carpenter vs. Winn, 221 U. S. 533.

They further state that the plaintiffs are not entitled to compel the defendants to produce at the trial any of the documents sought by them, under the decision of Cassett vs. Mitchell Coal & Coke Company, 150 Fed. 32.

Wherefore, respondents pray that said petition be dismissed, and for all proper relief hereunder.

HENRY WARRUM,
COVINGTON & GRANT,
Attorneys for Defendants.

I, G. L. Grant, one of the attorneys for the United Mine Workers of America and John P. White, state on oath that I have read over the above and foregoing response and that the matters and things set forth therein are true, as I verily believe.

G. L. GRANT,

Subscribed and sworn to before me this 20th day of September, 1917.

WM. S. WELLSHEAR, Clerk.

Certificate.

I, G. L. Grant, do hereby certify that I am one of the attorneys of the defendants in the above entitled cause; that I am familiar with the complaint and answer in this case and I therefore certify that in my opinion the matters and things

called for in the petition filed by the plaintiffs are not relevant, pertinent or material to the trial of this case.

G. L. GRANT,
Attorney for Defendants.

---

468 (Order September 20, 1917, of submission of Motion to require Defendants to produce, etc.)

Before Judge Youmans.

This day come the plaintiffs by James B. McDonough, their attorney, and file motion to require defendants to produce documents at the trial of this cause, and come the defendants by G. L. Grant, their attorney, and file response thereto.

Whereupon, comes on to be heard said petition, which is argued by counsel and submitted.

---

469 (Order September 21, 1917, requiring defendants to produce certain documents and papers at the trial.)

Before Judge Youmans.

On this day there came on for hearing the petition of the plaintiffs asking for an order, requiring the defendants to produce the documents set out in said petition. The said petition was filed on September 20, 1917, and the defendants on the same day filed their response to said petition and the said matters involved in said petition were submitted to the court and by the court taken under advisement.

And now come the parties hereto, and the court being well and sufficiently advised in the premises, finds that the plaintiffs are entitled under Section 724 of the United States Statutes to have said motion sustained.

It is, therefore, by the court, ordered, adjudged and considered that the defendants be and they are hereby required, under the obligations and penalties imposed by law, to produce at the trial of this cause, the documents described and called for in said petition, which said documents are: correspondence, which passed between John P. White as President of the United Mine Workers of America, on the one side, and Peter Stewart, President of District No. 21 of the United Mine Workers of America, and Fred Holt, Secretary of said District No. 21 of the United Mine Workers of America, and James Mullen, a Board member, the said correspondence taking place between said parties between April 1, 1914, and

January 1, 1915. The said correspondence is further described in paragraph six of said motion to produce said
470 documents.

It is also by the court ordered, adjudged and considered that the said defendants, under the obligations and penalties of the law, be and they are hereby required to produce at the trial of this cause the typewritten transcript of the Minutes and proceedings of the International Executive Board of the United Mine Workers of America, for the year 1914, said typewritten transcript being more particularly described in sections eight and nine of said motion.

It is further ordered, adjudged and considered by the court that the said defendants be and they are hereby required under the obligations and penalties of the law to produce in this cause at the trial thereof the bound and printed volumes of the United Mine Workers Journal, being the official organ of the United Mine Workers of America, and being the complete files of said Journal beginning with the year 1892 and including the year 1916, and including the said bound and printed volume for the year 1914 the said bound volumes being more particularly described in sections 11 and 12 of said petition. The said defendants being required, under this order to produce each and every one of the printed and bound volumes of said United Mine Workers Journal, beginning with the year 1892 and including each year from and after that date down to and including the year 1916.

It is further ordered, adjudged and considered by the court that the defendants be and they are hereby required under the obligations and penalties imposed by law, to produce at the trial of this cause the proceedings of the conventions and meetings of the International Executive Board de-
471 scribed in paragraph 11 of the above motion and more particularly described as the mintues of the proceedings of the International Executive Board of the United Mine Workers of America, which were held in the year 1914, and on May 4 and May 7, at Indianapolis, Indiana, and July 2 and July 3 at Kansas City, Missouri, and on August 10 and August 17 to August 22, at Indianapolis, Indiana, and on November 16 to November 21 at Philadelphia, Pennsylvania; and on November 30 at Indianapolis, Indiana.

The court reserves the right and power to decide and pass upon all questions as to the relevancy, competency and materiality of each and every one of the documents above referred to at and during the progress of said trial and when the same shall be offered in testimony.

The defendants save exceptions to the order of the court in requiring said defendants to produce each and every one of the documents above referred to.

---

472 (Petition to require Defendants' to produce certain documents and papers at trial.)

Filed in U. S. District Court September 28, 1917.

Your petitioners, C. H. Finley and H. P. Hilliard, respectfully represent:

1. That suit was brought by your petitioners as plaintiffs in the above entitled cause, receivers as therein entitled, against the defendants therein named for damages under the Sherman Anti Trust Act, as therein specified and set out, to which complaint the defendants, United Mine Workers of America, District No. 21 United Mine Workers of America, John P. White, individually and as President of the United Mine Workers of America, Frank J. Hayes, individually and as Vice President of the United Mine Workers of America, William Green, individually and as Secretary-Treasurer of the United Mine Workers of America, and all other associate and individual defendants therein named filed answers and the case was set for trial for October 16, 1917.

2. That on August 3, 1917, notice was duly served on Henry Warrum, attorney for the United Mine Workers of America, in the above entitled case for the taking before William S. Garber, Notary Public, at the office of the said William S. Garber, 525 Lemcke Building, Indianapolis, Indiana, on August 15, 1917, of the depositions of John P. White, and William Green, being defendants herein and being respectively, the President and Secretary-Treasurer of the United Mine Workers of America, defendants herein, service of which notice was accepted by the said Henry Warrum on said August 3, 1917.

3. In the taking of the deposition of the said John P. White, President of the United Mine Workers of
473 America, and William Green, Secretary of said organization the plaintiffs herein through their counsel called for the proceedings of the conventions of the United Mine Workers of America, the defendants herein. Said proceedings are referred to on pages 201 to 205 of the Indianopolis depositions. The said defendants refused to produce as a part of said depositions the convention proceedings and now refuse to produce said convention proceedings at the trial herein. The

said convention proceedings are composed of 18 small volumes and said volumes showing the proceedings of the conventions of the defendants, the United Mine Workers of America are in possession of the defendants and said defendants have refused to produce said proceedings at the trial of this cause. The said convention proceedings are in the possession of said defendants and the officers John P. White and William Green have control of said convention proceedings and can produce the same at the trial of this cause without expense, inconvenience or trouble. The plaintiffs herein have no copies of said convention proceedings and have no access to the same and have no power to produce the said proceedings in an authentic form at the trial hereof. The said convention proceedings, so far as your petitioners are advised, are in the possession of said defendants and refer to and include the proceedings of the conventions of the defendants beginning in the year 1898 and ending with the year 1916, inclusive.

4. The said proceedings of the conventions of the said defendants contain the reports of the officers of the defendants for each year from 1898 to 1916 inclusive and contain the actions of said defendants through said conventions and also contain the discussions and views of the defendants relative to the policy of the United Mine Workers of
474 America, relative to the organization of non-union coal mining fields and also of the policies and methods to be followed by the defendants in all non-union coal mining fields. Your petitioners believe and allege that the said convention proceedings are extremely pertinent, relevant and material on the important issues in this cause. The said convention proceedings are the records of the actions taken by the officers and officials of the defendants in their high legislative and representative capacity and your petitioners, therefore, allege on behalf of themselves as Receivers of all of the plaintiffs and on behalf of the plaintiff's coal companies that the said convention proceedings above described and referred to are pertinent and relevant on and to the issues in this cause.

It is alleged in the complaint herein that the conspiracy of the defendants herein is nation-wide and the plaintiffs allege that said conspiracy includes and covers the efforts of the defendants to drive out of interstate markets non-union coal. The said convention proceedings tend to show that the defendants were engaged in an effort to prevent the production of non-union coal and to prevent its movement in Interstate trade. Your petitioners allege that under the by-laws, constitution and usages of the United Mine Workers of

America, the said convention proceedings represent the principle, the conduct and the views and acts of the defendants upon the policy of the defendants in driving non-union coal from the markets. And your petitioners are advised and allege that said proceedings show the efforts of the defendants to prevent the opening up of non-union mines in Arkansas or elsewhere. Your petitioners therefore allege that said convention proceedings and each of them will tend to prove the allegations of the complaint and will tend to show that said defendants were engaged in a conspir-
475 acy to prevent the plaintiffs from opening up and operating their mines upon a non-union basis. The said convention proceedings, the said conventions having power so to do, show the acts and conduct of the defendants with reference to the progress of the so-called strike against the plaintiffs in 1914, and tend to show the acts done as alleged in the complaint by the defendants and tend to show the violation of the plaintiff's rights by the said defendant.

5. Your petitioners further allege that beginning in the year 1898 and coming down to and including the year 1916 there were meetings between the defendants and the so-called union coal operators. These meetings were called joint conventions. The proceedings of those meetings were kept and they are in the possession of the defendants. The said proceedings cover and include eight small volumes and they are referred to and indentified in the depositions of John P. White and William Green, and especially in the deposition of the latter, taken at Indianapolis in this cause in August of this year. The said joint convention proceedings are pertinent, relevant and material upon the issues joined in this cause. Your petitioners believe and allege that said joint convention proceedings tend to show and prove that there was an agreement between the defendants and the so-called union operators, beginning in 1898 and extending down to the present time, said agreement being between the defendants and the so-called union coal operators and said agreement was to the effect that the United Mine Workers in consideration that they were given an eight hour day agreed to unionize all non-union fields. That agreement was entered into in the year 1898 and your petitioners believe and allege that said agreement was kept up and continued through all the years down to the year 1916, and the
476 existence and terms of said agreement are shown in the said convention proceedings. The plaintiffs herein have no access to said convention proceedings and have

no other way, as they are advised, to procure said proceedings except by an application to the United States District Court, requesting an order to require the production of said proceedings at the trial of this cause. Your petitioners allege that the said convention proceedings, as they are advised, and believe, tend to prove that the defendants all entered into an unlawful agreement to keep the so-called non-union coal from being shipped and sold in Interstate Commerce. Your petitioners are advised and so allege that it is impossible to procure said proceedings except by an order of this court, requiring the defendants to produce the same. The said defendants and their officers are in possession of said proceedings and the same can be produced at the trial of this cause without expense or inconvenience to the defendants.

6. Your petitioners further allege that the conventions of the United Mine Workers of America, above referred to were held under the authority of the United Mine Workers of America, the defendants herein and the members of said conventions were members of the United Mine Workers and the said conventions were duly authorized and empowered by the defendants, the United Mine Workers, to hold said conventions and said conventions duly and fully and completely represent the acts, principles, and policies of the defendants as illustrated in said conventions.

Your petitioners further allege that the joint conventions between the United Mine Workers and the union operators are held upon the authority of the usages, customs, constitution and by-laws of the United Mine Workers of America and show the actions, conduct and relations existing be-
477 tween the United Mine Workers of America, and the so-called union coal operators.

Wherefore, your petitioners pray:

1. That an order be directed against the defendants, the United Mine Workers of America and against John P. White as President of the United Mine Workers of America and William Green, as Secretary of the United Mine Workers of America, requiring and directing and compelling the production at the trial of this cause of each and every volume of the Miners' convention proceedings above described, beginning with the convention of 1898 and coming down and including the convention of 1916.

2. That an order be directed to said the United Mine Workers of America, defendants herein and to John P.

White as President of the said United Mine Workers of America, and to William Green, Secretary-Treasurer of said United Mine Workers of America, requiring, ordering and compelling the said defendants and each of them to produce at the trial of this cause all the volumes of the proceedings of the joint conventions held between the United Mine Workers of America, and their representatives and the union coal operators and their representatives, beginning with the joint convention proceedings of 1898 and coming down and including the proceedings of 1916.

3. That the court grant to your petitioners all other and further relief to which they are entitled by reason of the facts above set forth and which shall be deemed to be proper in the premises.

And your petitioners will ever pray.

ROGER B. HULL
HENRY S. DRINKER Jr.
JAMES B. McDONOUGH
Attorneys for Petitioners.

---

478 Affidavit.

I, Clyde H. Finley, one of the plaintiffs in the above entitled cause, on oath state that I have read over the above and foregoing petition and the matters and things set forth in said petition, so far as my personal knowledge goes, are true and those things which are not known to me to be true are believed to be true.

CLYDE H. FINLEY

Subscribed and sworn to before me this 27th day of September, 1917.

.....
Notary Public.

My commission expires:

Certificate.

I, James B. McDonough do hereby certify that I am one of the attorneys of the plaintiffs in the above entitled cause.

I further certify that I am familiar with the complaint and the answer in this cause, and I therefore, certify that in my opinion the matters and things, called for in the above and

foregoing petition are relevant, pertinent and material to the trial of this cause.

JAMES B. McDONOUGH
Attorney for Plaintiffs.

---

479 (Response to petition to produce certain Documents and Papers.)

Filed in U. S. District Court September 28, 1917.

Come now the defendant, United Mine Workers of America, and protesting against the jurisdiction of this court, under protest, for its response to the motion to produce says:

1. The plaintiffs in the above entitled cause are not entitled to the order requiring these defendants to produce at the trial and documents sought by them under the decision of the Supreme Court of the United States in the case of Carpenter vs. Winn, 221 U. S. 533.

2. They further state that the plaintiffs are not entitled to compel the defendants to produce at the trial any of the documents sought by them, under the decision of Cassatt vs. Mitchell Coal & Coke Company, 150 Fed. 32.

3. It denies that the plaintiffs have no access to the convention proceedings of the United Mine Workers of America, from 1898 to date, but state that long ago all of said documents that were in the hands or under the control of the said defendant was tendered to the plaintiffs for inspection and to make copies of as is shown by the deposition referred to in the motion. It denies that the said convention proceedings shows or tends to show any of the things that the plaintiffs claim is shown therein, and denies that there is anything in said convention reports that is pertinent to the issues in this cause, or that proves or tends to prove the allegation contained in said cause or the pleadings in this case.

Wherefore this defendant prays that the court over-
480 rule said motion to produce, and for all proper relief.

HENRY WARRUM
COVINGTON & GRANT
Attorneys for Defendant.

State of Arkansas,
Sebastian County—ss.

G. L. Grant states on oath that he is one of the attorneys in the above entitled cause, that he has read over the fore-

going response and that the statements contained therein are true as he verily believes.

G. L. GRANT

Subscribed and sworn to before me on this the 28 day of September, 1917.

WM. S. WELLSHEAR, Clerk.

---

481 Petition for the Production of Certain Documents and Papers.

Filed in U. S. District Court September 28, 1917.

Your petitioners, C. H. Finley and H. P. Hilliard, respectfully represent:

1. That suit was brought by your petitioners as plaintiffs in the above entitled case, receivers as therein entitled, against the defendants therein named for damages under the Sherman Anti-Trust Act, as therein specified and set out, to which complaint the defendants, United Mine Workers of America, District No. 21 United Mine Workers of America, John P. White, individually and as President of the United Mine Workers of America, Frank J. Hayes, individually and as Vice-President of the United Mine Workers of America, William Green, individually and as Secretary-Treasurer of the United Mine Workers of America, and all other associate and individual defendants therein named filed answers and the case was set for trial for October 16, 1917.

2. That on August 3, 1917, notice was duly served on Henry Warrum, attorney for the United Mine Workers of America, in the above entitled cause for the taking before William S. Garber, Notary Public, at the office of the said William S. Garber, 525 Lemcke Building, Indianapolis, Indiana, on August 15, 1917, of the depositions of John P. White and William Green, being defendants herein and being respectively, the President and Secretary-Treasurer of the United Mine Workers of America, defendants herein, service of which notice was accepted by the said Henry Warrum on said August 3, 1917.

3. Your petitioners further allege that the defendants,
482 known as District 21 of the United Mine Workers of America, in the years 1914, 1915, and 1916, held important meetings, discussing the attitude of the defendants, including the attitude of the local unions, District Twenty-one and the National United Mine Workers of America, with reference to whether the plaintiffs coal companies should be per-

mitted to open their coal mines upon the so-called non-union basis and discussing the other matters relevant and pertinent to the issues involved in the trial of this cause.

Your petitioners allege that the proceedings of said conventions held on May 18, 1914, and on other dates in the month of May, 1914, and also held during other months in the year 1914 and in the meetings held September 15, and April 1916 show the attitude and conduct and acts of the officials of District 21 of the United Mine Workers of America, and also of the National Union and also of the members of the United Mine Workers of America, of District 21 and also of the local unions through their representatives in said conventions held by said District Number Twenty-one.

Your petitioners believe and allege that the said proceedings of the conventions of District 21 are extremely important, pertinent, relevant and material to the issues involved in this cause, and said proceedings tend to prove the allegations of the petition herein. The said proceedings of the said conventions of District 21 your petitioners allege tend to show that said District 21 aided and abetted by the International Union intended to and did destroy the property of the plaintiffs herein and they further tend to show that said property was destroyed to prevent the coal mines from being operated upon a non-union basis as alleged in the complaint. These discussions were had in all of the convention proceedings of said District 21 as your petitioners believe and
483 allege, in the years 1914, 1915, and 1916 inclusive.

Your petitioners allege that the said convention proceedings of District 21 are now in the hands and possession of these defendants and are in the hands and possession of the present President, John Wilkinson and the present Secretary, E. F. Ross, and subject to their direction and control. The said proceedings can be produced by the defendants at the trial of this cause without expense, inconvenience or trouble.

Your petitioners allege that they have no copies or originals of said convention proceedings of District 21 and your petitioners know of no means of obtaining the same, except that the defendants be required by an order of the court to produce said convention proceedings at the trial of this cause. As above alleged said convention proceedings are pertinent, relevant and material to the issues joined herein, and tend to prove the allegations of the complaint.

Wherefore your petitioners pray:

1. That an order be made herein directed against the United Mine Workers of America, District 21 and each and every one of the officers of said District, and especially against John Wilkinson, President and E. F. Ross, Secretary of said District, requiring and compelling said defendants to produce at the trial of this cause the convention proceedings of the United Mine Workers of America of District 21, beginning in the year 1914, down to and including all proceedings in the year 1916, including the proceedings of 1914, 1915, and 1916.

2. That the court grant to your petitioners all other and further relief to which they are entitled by reason of the facts above set forth, and which shall be deemed proper in
484 the premises, and your petitioners will ever pray.

ROGER B. HULL
HENRY S. DRINKER JR.
JAMES B. McDONOUGH,
Attorneys for Petitioners.

Affidavit.

I, Clapde H. Finley, one of the plaintiffs in the above entitled cause, on oath state that I have read over the above and foregoing petition and the matters and things set forth in said petition, so far as my personal knowledge goes, are true and those things which are not known to me to be true are believed to be true.

CLYDE H. FINLEY.

Subscribed and sworn to before me this 27th day of September, 1917.

.....

My commission expires:

Certificate.

I, James B. McDonough do hereby certify that I am one of the attorneys of the plaintiffs in the above entitled cause.

I further certify that I am familiar with the complaint and the answer in this cause, and I, therefore, certify that in my opinion the matters and things called for in the above and foregoing petition are relevant, pertinent and material to the trial of this cause.

JAMES B. McDONOUGH,
Attorney for Plaintiffs.

485 Response To Petition For The Production Of Certain Documents And Papers.

Filed in U. S. District Court September 28, 1917.

Come now District Twenty One United Mine Workers of America, named as a defendant in the above styled action, and protesting against the jurisdiction of this court, under protest for its response to the motion to produce books, papers and documents, says:

It denies that it held important meetings in the years 1914, 1915 and 1916, or at all, discussing the attitude of the defendants, including the attitude of the local unions, District Twenty-one and the National United Mine Workers of America with reference to whether the plaintiffs coal companies should be permitted to open their coal mines upon the so-called non-union basis, or discussed other matters relevant or pertinent to the issues involved in the trial of this cause.

The said District Twenty-one further denies that the proceedings of the convention held on May 18, 1914, and on other dates in May, 1914, or any other months in the year 1914, or in meetings held in 1915, or in 1916, show or tend to show the attitude and conduct and acts of the officials of District Twenty-one of the United Mine Workers of America, or of the National Union, or of the members of the United Mine Workers of America, of District Twenty-one, or of the local unions, through their representatives or otherwise.

Said District Twenty-one says that none of the papers, books, documents or proceedings referred to are relevant or pertinent to the issues involved in this cause; and
486 denies that there is anything in said proceedings that tends to show or shows that District Twenty-one or the National Union intended to or did destroy the property of the plaintiffs, or that either the said District Twenty-one or the National Union abetted anyone to commit such acts, or intended doing so; for the purpose of preventing said coal mines being operated on the non-union basis or otherwise. Denies that such discussions were had in the conventions of 1914, 1915 or 1916.

Said District Twenty-one denies that there is or ever has been in the possession of John Wilkinson as President or E. F. Ross as Secretary-Treasurer or otherwise, any books, papers, documents, convention proceedings or other memoranda showing any such proceedings, matters or things as is referred to in plaintiff's motion.

Wherefore said District Twenty-one prays that this court deny said motion to produce, and for all other relief hereunder.

HENRY WARRUM
COVINGTON & GRANT
For Defendant.

State of Arkansas
Sebastian County—ss.

G. L. Grant states on oath that he is one of the attorneys for the above named defendant; that he has read over the foregoing response and that the statements contained therein are true to the best of his knowledge and belief.

G. L. GRANT

Subscribed and sworn to before me on this the 28th day of September, 1917.

WM. S. WELLSHEAR, Clerk.

---

487 (Order, September 28, 1917, requiring Defendants to Produce certain Documents and Papers at trial.)

Before Judge Youmans.

On this day there came on for hearing the petitions of the plaintiffs asking for an order requiring the defendants to produce certain documents, set out and described in said petitions, said petitions being this day filed. On this day the defendants filed their responses herein. Both the petitions and the responses are sworn to and were submitted to the court, and the court being well and sufficiently advised in the premises finds that the plaintiffs are entitled, under Section 724 of the Statutes of the United States to have said motions sustained.

It is, therefore, by the court ordered, adjudged and considered that the defendants and also their officers, John P. White, President, and William Green, Secretary-Treasurer, be and they are hereby required under the obligations and penalties imposed by law, to produce at the trial of this cause the documents described and called for in said petitions, which said documents are the minutes of the proceedings and the convention proceedings of the Conventions of the United Mine Workers of America, being the proceedings of all of the conventions of the said United Mine Workers of America, beginning in the year 1898 and ending with the year 1916, and including the said minutes of the proceedings and convention proceedings for each and every year,

including the last year named. The said convention proceedings are more particularly described in sections 3 and 4 of the motion to produce the same.

488 It is further ordered, adjudged and considered by the court that the said defendants, the United Mine Workers of America, and also their officers, John P. White, President, and William Green, Secretary-Treasurer, be and they are hereby required under the obligations and penalties of the law to produce in this cause at the trial thereof the minutes of the meetings and proceedings of the joint conventions between the United Mine Workers of America, and the so-called union coal operators. The said minutes and proceedings, being the proceedings of the joint conventions of the United Mine Workers of America, and the union coal operators beginning with the year 1898 and coming down to and including the proceedings and minutes thereof for the year 1916. The said minutes and proceedings of said joint conventions are more particularly described in paragraph 5 of the motion relating thereto.

It is further ordered, adjudged and considered by the court that the defendants, the United Mine Workers of America, of District 21 and John Wilkinson, President of the same, and E. F. Ross, Secretary, be and they are hereby required under the obligations and penalties of the law, to produce in this cause at the trial thereof the minutes and convention proceedings of District 21 of the United Mine Workers of America, including all said minutes and convention proceedings for the years 1914, 1915 and 1916, which said minutes and proceedings are more particularly described in paragraph 3 of the motion relating thereto.

The court reserves the right and power to decide and pass upon all questions as to the relevancy, competency and materiality of each and every one of the documents
489 above referred to at and during the progress of said trial and when the same may or shall be offered in testimony.

The defendants save due and proper exceptions to the order of the court in requiring said defendants to produce the documents above referred to and described.

---

490 (Order, September 28, 1917, overruling Motion to Postpone Trial.)

Before Judge Youmans.

This day come the plaintiffs by James B. McDonough and Roger B. Hull, their attorneys, and come defendants by

Messrs. Covington & Grant, their attorneys, and defendants move orally for a postponement of the trial of this cause now set for Ocotber 16, 1917, for ten days or two weeks. Said motion is resisted by plaintiffs.

On consideration the said motion is by the court overruled without prejudice to a renewal thereof at a later date.

---

491 Stipulation For Postponement Of Trial.

Filed in U. S. District Court October 1, 1917.

A motion having been made in this cause by the defendants on Saturday, September 29th, 1917, asking the court for a continuance in this cause of two weeks from October 16th, the date heretofore assigned for the beginning of the trial, and the court having overruled said motion, without prejudice, however, to the right of the defendants to renew said application before the court on October 16th, 1917, it is hereby stipulated and agreed by and between counsel for both parties to the cause that the cause may be continued until October 23rd, 1917.

COVINGTON & GRANT
Attorneys for Defendants.

ROGER B. HULL
HENRY S. DRINKER JR,
J. B. McDONOUGH
Attorneys for Plaintiffs.

---

492 (Order, October 1, 1917, granting continuance.)

Before Judge Youmans.

This day there is filed in the above entitled cause stipulation of the parties by their attorneys for a continuance thereof until October 23, 1917, for the trial, and the same is continued accordingly.

---

493 Petition For Production Of Certain Expense Accounts, Papers And Documents.

Filed in U. S. District Court October 13, 1917.

Your petitioners, C. H. Finley and H. P. Hilliard, respectfully represent:

1. That suit was brought by your petitioners as plaintiffs in the above entitled case, receivers as therein entitled,

against the defendants therein named for damages under the Sherman Anti-Trust Act, as therein specified and set out, to which complaint the defendants, United Mine Workers of America, District No. 21 United Mine Workers of America, Local Unions Numbers 340, 374, 560, 586, 1130, 1159, 1526, 1530, 1565, 1810, 1814, 1824, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2316, 2494, 2766, 2769, 2770, 2772, 2841, 2880, of the United Mine Workers of America, and all other associates and individual defendants therein filed answers, and the case was set for trial for October 16, 1917, which date was subsequently postponed by the court to October 23, 1917.

2. That on August 3, 1917, notice was duly served on Henry Warrum, attorney for the United Mine Workers of America, in the above entitled cause for the taking before William S. Garber, Notary Public, at the office of the said William S. Garber, 525 Lemcke Building, Indianapolis, Indiana, on August 25, 1917, of the depositions of John P. White and William Green, being defendants herein, and being respectively, the President and Secretary-Treasurer of the United Mine Workers of America, defendants herein, service of which notice was accepted by the said Henry Warrum, on said August 3, 1917.

494 3. Your petitioners further allege that in the taking of said deposition of the said William Green, Secretary-Treasurer of the United Mine Workers of America, the plaintiffs herein, through their counsel, called for the production of the expense accounts of James Mulien, International Executive Board member of District No. 21 United Mine Workers of America, K. C. Adams, Publicity Agent, of the United Mine Workers of America, John P. White, President of the United Mine Workers of America, for the period from April 1, 1914, through the year 1915, which said expense accounts of said individuals for said years were then and there produced from the files of the United Mine Workers of America, by the said witness, Green, and shown to have been in the possession thereof, and certain extracts thereof stated by the said witness, Green, in the course of said depositions as being contained therein.

4. The said expense accounts of the said individuals show, as will appear from the said deposition then taken, on pages 33 to 53, that the individuals rendering said accounts claimed have received from the United Mine Workers of America reimbursement for traveling expenses and hotel

bills on various dates between and at various points, and will indicate the presence of the said individuals at the several points so designated at the several times.

In connection with the present litigation it is relevant, and most important for the plaintiffs to show that the said individuals as representatives of the United Mine Workers of America, were present at the several points so indicated at the times indicated, and particularly to show that the said James Mullen was present in the vicinity of Prairie Creek, Fort Smith, and Hartford, at various times between the first of April, 1914 and the 20th of July, 1914; that the said James
495 Mullen was present at certain meetings of the International Executive Board during the year 1914, the exact date and location of which your petitioners are at present unable to state, but the location and date of which will appear from the minutes of the International Executive Board, which the court on a prior petition of these petitioners, has ordered produced at the trial of this cause. That the said James Mullen made frequent journeys between the location of the present controversy and the headquarters of the United Mine Workers of America, at dates subsequent to July 20, 1914, and also to other points where the said John P. White was at the same time present for the purpose of showing that the said James Mullen kept in touch with the said John P. White and presumably informed the said John P. White of the events which had happened and were happening in connection with the present controversy.

The said expense accounts of the said K. C. Adams are relevant and important and pertinent to the present issue in that they show the presence of the said K. C. Adams at the vicinity of the present controversy, during and shortly succeeding the same, and the said K. C. Adams by virtue of his official position with the United Mine Workers of America, presumably being present on the scene of the present controversy for the purpose of acquainting the officers and members of the United Mine Workers of America with all the facts in connection with the present controversy.

The said expense accounts of the said John P. White are relevant, material and pertinent to the present issue in that they show the presence of the said John P. White at points to which the said James Mullen and K. C. Adams were shown by their expense accounts to have proceeded and remained in order to give the said John P. White notice of the

events of which the said James Mullen and K. C.
496 Adams were advised, and which, in pursuance of their respective positions, it was the duty of the said James Mullen and K. C. Adams to inform the said John P. White.

As appears from the said deposition, pages 54, et seq., to said William Green produced on call of the plaintiffs, contracts between the United Mine Workers of America, acting through their International officers, and also through their district officers, with the operators operating union mines in the several districts in the United States and Canada, which said contracts were in force in March, April, May, June and July of the year 1914. The said contracts aforesaid are relevant, material and pertinent to the present issue, in that they tend to support paragraphs 11, 12, 13, 14, 15, and other paragraphs of the said complaint, in that they show the agreements, existing in the year 1914, between the United Mine Workers of America, and the union operators in the several states, and districts, to which said contracts apply.

The said expense accounts and contracts above referred to are in the sole possession and control of the defendants, the United Mine Workers of America, and of the officers thereof, as such and the plaintiffs have not under their control or within their power to produce any complete copies of the same, which can be verified as correct copies, or any partial extracts of the same, other than the extracts referred to in said deposition in connection with the said testimony of the said witness, William Green, to the production of which extracts the defendants might object in case the said witness, William Green, should be present at the trial of the said cause, during the course of the said Indianapolis depositions,
it having been intimated by the said counsel of the de-
497 fendants during said depositions that the said witness, William Green, would be present at the trial of the said cause.

5. Your petitioners believe that for the years 1914, 1915, and 1916, the officers of the district branch of the United Mine Workers of America, known as District No. 21, made and filed and presented to the periodical conventions of the said district written, typewritten or printed reports of their several activities as officers of the said district branch of the said United Mine Workers of America, for the periods 1914, 1915, and 1916, or parts thereof, which said reports or authorized copies thereof, your petitioners believe are in possession of and under the control of District No. 21 of the United Mine Workers of America, and of the proper officers thereof,

said reports being of the Presidents of District No. 21 of the United Mine Workers of America, in office during the said years, to-wit: P. R. Stewart, Pete Hanraty, Edward Cunningham, John Wilkinson, William Daly and William McLaughlin, as Presidents, and Fred Holt, E. F. Ross, and T. B. Douglas, and H. B. Long as Secretary-Treasurers of the said United Mine Workers of America, and of G. W. Lindsay and J. D. Winters, as the Vice Presidents of the said United Mine Workers of America, or any other persons occupying any one of said respective [officers,] during said period.

Said reports of the said officers are relevant, material and pertinent to the present issue in that they will, as believed by your petitioners, indicate or tend to show the activities of the said officers and of the district branches represented by them in connection with the present controversy, during the period theerof, and also the attitude of the United Mine Workers of America, to the known union participants
498 therein, subsequent thereto.

Your petitioners have no copies of said reports, and are unable to obtain copies of the same. The report of the Secretary-Treasurer of District No. 21 for the said period is especially pertinent, to the present issue, in that it will tend to show the payment by the United Mine Workers of America, through its said district branch No. 21 of certain sums to participants in the controversy herein on account of their activities and to certain other persons on account of their charges and disbursements in connection with the defense of union participants in said controversy or of an effort to release the same from punishment by reason thereof, in connection with charges of contempt of court, or of violation of the criminal laws, to which the United Mine Workers of America was not a party, thus amounting to an admission by the United Mine Workers of America, that the said participants had engaged in said controversy by reason of their membership or representation of the said United Mine Workers of America, said evidence being therefore pertinent to the said issue in support of the allegations of the said complaint that the United Mine Workers of America committed and was responsible for the acts which caused the damages, the subject matter of the present suit.

Your petitioners believe that there are in existence and subject to the control of the United Mine Workers of America, District No. 21 and of the respective local unions, branches of the United Mine Workers of America above named, accounts or statements, showing the receipts and dis-

bursements of the several local unions above named, branches and sub-divisions of the said United Mine Workers of America, for the period from April 1, 1914 to January 1, 1916, said accounts or statements are relevant,
499 material and pertinent to the present issue in that they will indicate or tend to show certain payments made by the said United Mine Workers of America, through its local union branches, aforesaid, to the union participants or to other persons in connection with the controversy herein, and thus to show the participation of said United Mine Workers of America therein, through said local branches thereof.

Your petitioners believe that there is in existence, in the possession and under the control of the United Mine Workers of America, District branches of the United Mine Workers of America, and of the several local branches of the United Mine Workers of America above named, a written, typewritten or printed list of the members of the said United Mine Workers of America, comprising the local branches thereof above named, during the period from April 1, 1914 to May 1, 1916, inclusive, showing who were the members of the said United Mine Workers of America, included within the sub-divisions or branches thereof, comprising the said local branches, from time to time, during the said period.

The said membership lists are relevant, material and pertinent to the present issue in that they will tend to identify as members of the United Mine Workers of America, the individuals, who in the course of the trial of the present case may be shown to have participated in the present controversy. The names of by far the greater part of the said union participants in said controversy are not known to your petitioners at the present time, nor can they be ascertained by your petitioners, except at the trial of the present case. The said membership list is therefore, pertinent to the present issue in that it will identify as a member or representative of the United Mine Workers of America, the par-
500 ticipants in the said controversy, and will tend to support the allegations in said complaint that the destruction of the plaintiffs' property was by members and representatives of the United Mine Workers of America, in pursuance of their membership and representation thereof.

Your petitioners are unable to procure any copies of the said membership list and are unable to secure the evidence affored thereby, except by the production thereof at the trial of the said case.

Your petitioners are informed and believe that during the period from April 1, 1914 to January 1, 1916, inclusive, the said district branch of the United Mine Workers of America, known as District No. 21, kept a bank account in the name of its then Secretary-Treasurer in certain banks in the city of McAlester, Oklahoma, and particularly in the Oklahoma State Bank, and in connection with the said bank accounts had and from time to time used certain check books from which it executed and delivered to certain persons certain checks, directing the said banks to pay certain moneys belonging to said District No. 21 of the United Mine Workers of America, which said checks after payment were returned by the said banks to District No. 21 of the United Mine Workers of America, or to its then Secretary-Treasurer.

Further that in the use of the said check books as is customary, the said Secretary-Treasurer from time to time, of said District 21, or his duly authorized agent, filled out the stubs of said check, showing the use to which the said checks were put and the persons to whom they were paid.

The said check books and the stubs thereof and the cancelled checks returned by the said districts to the said Secretary-Treasurer in connection therewith are relevant, material, and pertinent to the present issue in that they
501 or certain of them will tend to show certain payments by the said Secretary-Treasurer as an officer of the said District No. 21 of the United Mine Workers of America, to certain persons and corporations on account of materials, commodities or service furnished or rendered by said persons or corporations to the said United Mine Workers of America, or Districts thereof, in connection with the promotion of the activities, resulting in the damage for which the present suit is brought or in connection with shielding the participants thereof from the consequences thereof.

In particular your petitioners are informed and believe that the said Secretary-Treasurer used the said funds of the said District No. 21, deposited in said banks, in payment for certain arms and ammunition used in connection with the destruction of the plaintiffs' property and the driving off of the plaintiffs' employees, as alleged in the plaintiffs' petition. It further used the said district funds as aforesaid in the defense on charges against them as individuals in the participation in said controversy, who were members of the United Mine Workers of America, and further, after the conviction and sentence of certain union members, used said

funds in an effort to secure the release of the said persons from custody or their pardon by the President of the United States.

Your petitioners are unable to secure copies of said checks or of the stubs thereof or to duplicate the evidence of the participation by the United Mine Workers of America, in the said controversy furnished thereby.

All of the papers, reports and documents above specified are most important and essential to the proof of the allegations of the said complaint, supporting the allegations thereof, and are pertinent to the issue herein involved and the evidence afforded thereby is most important in sup-
502 port of the allegations of the said complaint.

Wherefore your petitioners pray:

1. That an order be directed against the defendants, United Mine Workers of America and against William Green, Secretary-Treasurer of the United Mine Workers of America, requiring and directing and compelling the production at the trial of this cause, all the expense accounts of the said James Mullen, John P. White, and K. C. Adams, covering the period from April 1, 1914, to March 1, 1915, inclusive.

2. That an order be directed against the defendants, United Mine Workers of America, and against William Green, Secretary-Treasurer of the United Mine Workers of America, requiring and directing and compelling the production at the trial of this cause all contracts in effect during March, April, May, June and July, 1914, between the United Mine Workers of America, or any district branch thereof, and any union coal operators in the United States and Canada.

3. That an order be directed against the defendants, the United Mine Workers of America, District No. 21, United Mine Workers of America, and each and every one of the officers of the said district and especially against John Wilkinson, and E. F. Ross, as President and Secretary-Treasurer of the said District respectively, requiring and compelling the said defendants and said officers thereof to produce at the trial of this cause the reports of all officers of District No. 21, United Mine Workers of America, Presidents, Vice Presidents, and Secretary-Treasurers thereof, covering the period during the years 1914, 1915 and 1916, inclusive.

4. That an order be directed against the United Mine Workers of America, District No. 21, United Mine
503 Workers of America, and Local Unions Numbers 340, 374, 560, 586, 1130, 1159, 1526, 1530, 1565, 1810, 1814, 1824,

1842, 1912, 1934, 2027, 2053, 2110, 2160, 2316, 2494, 2766, 2769, 2770, 2772, 2841 and 2880 of the United Mine Workers of America requiring and compelling the said defendants to produce at the trial of this cause the several Treasurer's reports, expense accounts or memoranda of disbursements of the funds of the said local unions in whatever form the same may be contained by the respective officers or members of the said local unions, showing the disbursements for union purposes of the funds of the said local unions for the years 1914, 1915 and 1916.

5. That an order be directed against the defendants, the United Mine Workers of America, District No. 21, United Mine Workers of America, and the local branches thereof, compelling them to produce the list of the members of the respective local unions for the years 1914, 1915 and 1916.

6. That an order be issued, directed against the defendants, the United Mine Workers of America, and against District No. 21, United Mine Workers of America, and against John Wilkinson and E. F. Ross, as President and Secretary-Treasurer of said District, respectively, requiring and compelling the said defendants and the said officers thereof to produce at the trial of this cause all returned checks in their possession theretofore executed and paid by the several banks to which they were directed on account of disbursement of the funds of District No. 21 United Mine Workers of America, during the period from April 1, 1914, to January 1, 1916, and all check books, containing stubs of checks issued for said purposes during said period.

7. That the court grant to your petitioners all other and further relief to which they are entitled by reason of the facts above set forth, and which shall be deemed proper in
504 the premises and your petitioners will ever pray.

ROGER B. HULL,
HENRY S. DRINKER JR.
JAMES B. McDONOUGH,
Attorneys for Plaintiffs.

Affidavit.

I, Clyde H. Finley, one of the plaintiffs in the above entitled cause, on oath state that I have read over the above and foregoing petition and the matters and things set forth in said petition, so far as my personal knowledge goes, are true and those things which are not known to me to be true are believed to be true.

CLYDE H. FINLEY.

Subscribed and sworn to before me this 13th day of October, 1917.

(Notarial Seal) D. E. GUSTAFSON,
Notary Public.

My commission expires:

Certificate.

I, James B. McDonough, do hereby certify that I am one of the attorneys of the plaintiffs in the above entitled cause.

I further certify that I am familiar with the complaint and the answer in this cause, and I, therefore, certify that in my opinion the matters and things called for in the above and foregoing petition are relevant, pertinent and material to the trial of this cause.

JAMES B. McDONOUGH,
Attorneys for Plaintiffs.

---

505 (Order, October 13, 1917, requiring Defendants to Produce certain Documents and Papers.)

Before Judge Youmans.

On this day there came on for hearing the petition of the plaintiffs, asking for an order, requiring the defendants to produce certain documents, set out and described in said petition, said petition being this day filed. On this day the defendants declined to appear in answer to said petition. The petition being sworn to, were submitted to the court and the court being well and sufficiently advised in the premises finds that the plaintiffs are entitled, under Section 724 of the Statutes of the United States to have said motions sustained.

It is, therefore, by the court ordered, adjudged and considered that the defendants, United Mine Workers of America, and its officer, William Green, Secretary-Treasurer thereof, be and they are hereby required, under the obligations and penalties imposed by law, to produce at the trial of this cause, the documents described and called for in paragraph 1 of said petition, being all the expense accounts of James Mullen, Executive Board member, representing District No. 21, United Mine Workers of America, John P. White, President of United Mine Workers of America, and K. C. Adams, publicity agent of the United Mine Workers of America, covering the period from April 1, 1914, to January 1, 1916, inclusive.

It is further ordered, adjudged and considered by the court that the defendants, the United Mine Workers of America, and

their officer, William Green, Secretary-Treasurer thereof, be and they are hereby required under the obligations and
506 penalties of the law to produce in this cause at the trial thereof the documents described in the second paragraph of the prayer in said petition, being all contracts in effect during March, April, May, June and July, 1914, between the United Mine Workers of America or any district branch thereof, and all union coal operators in the United States or Canada.

It is further ordered, adjudged and considered by the court that the United Mine Workers of America, District 21, United Mine Workers, and John Wilkinson, and E. F. Ross, as President and Secretary-Treasurer of said District respectively, be and they are hereby required to produce in this cause at the trial thereof the reports of all officers of District No. 21 of the United Mine Workers of America, Presidents, Vice Presidents and Secretary-Treasurer of said district, covering the period during the years 1914, 1915 and 1916 inclusive.

It is further ordered, adjudged and considered by the court that the defendants, United Mine Workers of America, District No. 21, United Mine Workers of America, and Local Unions Numbers 340, 374, 586, 1130, 1159, 1526, 1530, 1565, 1810, 1814, 1824, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2316, 2494, 2766, 2769, 2770, 2772, 2841 and 2880 of the United Mine Workers of America be and they are hereby required, under the obligations and penalties of the law, to produce in this case at the trial thereof the several Treasurer's reports, expense accounts or memoranda of disbursements of the funds of the said local unions in whatever form the same may be contained by the respective officers or members of the said local unions, showing the disbursements for union purposes of the funds of the said local unions for the years 1914, 1915 and 1916.

It is further ordered, adjudged and considered by the
507 court that the defendants, Union Mine Workers of America, District No. 21, United Mine Workers of America, and the several Local Unions, Numbers 340, 374, 560, 586, 1130, 1159, 1526, 1530, 1565, 1810, 1814, 1824, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2494, 2766, 2769, 2770, 2772, 2841 and 2880 of the United Mine Workers of America, be and they are hereby required, under the obligations and penalties of the law to produce in this case at the trial thereof the lists of members of the said respective local unions for the years 1914, 1915, 1916.

It is further ordered, adjudged and considered by the court that the defendants, United Mine Workers of America, District 21, United Mine Workers of America and John Wilkinson and E. F. Ross, as President and Secretary of the said District No. 21, requiring them to produce at the trial of this cause all returned checks in their possession theretofore executed and paid by the several banks to which they were directed on account of disbursement of the funds of District No. 21, United Mine Workers of America, during the period from April 1, 1914, to January 1, 1916, and all check books, containing stubs of checks issued for said purposes during said period.

The court reserves the right and power to decide and pass upon all questions as to the relevancy, competency and materiality of each and every one of the documents above referred to at and during the progress of said trial and when the same may or shall be offered in testimony.

---

508 (Jury impaneled; Trial, October 23, 1917.)

Before Judge Elliott.

This October 23, 1917, come the plaintiffs by James B. McDonough, Henry S. Drinker, Jr., and Roger B. Hull, their attorneys, and come the defendants by Messrs. Covington & Grant and Henry Warrum, their attorneys, and the parties announcing ready for trial come the following named persons as jurors, to-wit:

W. W. Thomas	T. H. Shannon	Omar Bird
Charles Wagner	Boss Martin	J. T. Medlock
S. E. Morrow	John Dunagin	James Grimesly
M. W. Harris	S. H. Calhoun	W. L. Johnson

twelve good and qualified electors of the Western District of Arkansas, Fort Smith Division, duly selected, impaneled and sworn to try the issues joined.

In the selection of the jury Gus Gillian, one of the jurors called, being examined on his voir dire, was challenged by the defendants for cause. Such challenge was by the court overruled and defendants duly excepted at the time.

In the selection of the jury W. L. Edwards, one of the jurors called, being examined on his voir dire, was challenged by the defendants for cause. Plaintiffs made no resistance of the challenge and the said juror was by the court excused.

After the impanelment of the jury before the statement of the case by counsel, defendants United Mine Workers of

America, John P. White, individually, and as President of the United Mine Workers of America, and William Green, individually, and as Secretary-Treasurer of the United Mine Workers of America, filed their protest against production of books herein; also defendant District No. 21 of the United Mine Workers of America filed its protest against the production of books herein; also defendants Local Unions Nos. 560, 586, 1526, 1810, 1842, 1912, 2110, 2494, 2766, 2769, 2770, 2772, 2841, 2880, 1530, 2053, 1934, 1814, 2027, 2160, 340, 1130 and 1565, United Mine Workers of America filed their protest against the production of books herein. Said protests against the production of books coming on to be heard and being argued by counsel and submitted the court being well and sufficiently advised in the premises, doth overrule each of said protests at this time without prejudice to the renewal thereof during the progress of the trial. To the action of the court in overruling each of said protests the respective protesters duly excepted at the time.

509

Whereupon, statement of the case was made by counsel- to the jury, and at the hour of adjournment the further trial of this case was postponed until tomorrow morning, 9½ o'clock, and the jury permitted to separate under the admonition of the court until that hour.

---

510 Protest of United Mine Workers of America, et al., Against the Production of Documents.

Filed in U. S. District Court October 23, 1917.

The United Mine Workers of America, appearing under protest, John P. White individually and as President of the United Mine Workers of America, and William Green individually and as Secretary-Treasurer of the United Mine Workers of America, now severally protesting against the production of the books, papers and documents heretofore provisionally ordered to be produced, move the court to set aside the several orders to produce said books, papers and documents and to order that said defendants be not required to make such production in the said several particulars, as follows, to-wit:

I.

The said defendants be not required to produce "the typewritten transcript of the minutes and proceedings of the National Executive Board of the United Mine Workers of America for the year 1914", for the following reasons:

(a) Because there is no substantial showing that said documents contain material evidence in support of plaintiffs' cause of action, but the same is manifestly a fishing expedition.

(b) Because such order of production would violate the constitutional rights of said defendants secured to them under Articles 4 and 5 of the Amendments to the Federal Constitution against unreasonable search and seizures, and compel them to give testimony against themselves in a cause penal in its nature.

(c) Because such order calls for the production of minutes covering the entire year 1914, a large part of
511 which was after the institution of this suit and all containing matters not relating to said cause and which the plaintiffs are not entitled to inspect.

II.

That said defendants be not required to produce "correspondence which passed between John P. White as President of the United Mine Workers of America on the one side and Peter Stewart, President of District No. 21 of the United Mine Workers of America and Fred Holt, Secretary of said District No. 21 and James Mullen a Board Member, the said correspondence taking place between said parties between April 1, 1914 and January 1, 1915", for the following reasons:

(a) Because there has been no substantial showing that said correspondence contain material evidence in support of plaintiffs' cause of action, but that the plaintiffs obviously seek to conduct through the order of the court a fishing exploration of said correspondence.

(b) Because an order for the production of said correspondence will be violative of said defendants' constitutional rights under the 4th and 5th Articles of the Amendments of the Federal Constitution.

(c) Because such order would require for the production and inspection by the plaintiffs all matters not relating to said cause and which said defendants should not have submitted to plaintiffs' inspection.

III.

That said defendants should not be required to produce at the trial of this cause "all the expense accounts of James Mullen, Executive Board Member, representing District No.

21 United Mine Workers of America, and K. C.
512 Adams, Publicity Agent of the United Mine Workers of America, covering the period of April 1, 1914, to January 1, 1916, inclusive", for the following reasons:

(a) Because there has been a substantial showing that said documents contain any material evidence to support the plaintiffs' cause of action.

(b) Because the plaintiffs have taken the deposition of William Green, Secretary-Treasurer of the United Mine Workers of America, and secured from him for their inspection and use in connection with the taking of said deposition all of said financial accounts and plaintiffs made use of said financial accounts in the taking of said deposition, which said deposition is now on file in this case.

(c) Because the documents called for include a period of a year and four months after the commencement of this suit and because all of the documents contain matters not relating to said cause and which the plaintiffs are not entitled to inspect.

IV.

Said defendants should not be required to produce "all contracts in effect during March, April, May, June and July, 1914, between the United Mine Workers of America or any District branch thereof and all union coal operators in the United States or Canada", for the following reasons:

(a) Because the plaintiffs demanded and had produced for their inspection and use said documents at the taking of the deposition of William Green, Secretary-Treasurer of the United Mine Workers of America by them, which deposition is now on file in said cause.

V.

The said defendants should not be compelled to pro-
513 duce "the minutes of the proceedings of the Convention proceedings of the United Mine Workers of America, being the proceedings of all of the conventions of the said United Mine Workers of America beginning in the year 1898 and ending with the year 1916, and including the said minutes of the proceedings and convention proceedings for each and every year, including the last year named", for the following reasons:

(a) Because there has been no substantial showing by the plaintiffs that said documents contain any material evidence in support of plaintiffs' cause of action, but that the plain-

tiffs are seeking with the aid of the court to explore the files of the defendants in the hope that they may discover some evidence.

(b) That said reports of said conventions and the proceedings thereof are known to the plaintiffs to be printed in book form and not otherwise available, which is shown by the deposition taken by plaintiffs of William Green now on file in this cause, and there has been no showing that the plaintiffs are unable to secure copies of said printed books or that the said defendants are the sole custodians thereof.

VI.

That said defendants should not be compelled to produce at the trial of this cause for plaintiffs' use "the bound and printed volumes of the United Mine Workers Journal being the complete files of said Journal beginning with the year 1892 and ending with the year 1916, and including the said bound and printed volumes for the year 1914", for the following reasons:

(a) Because the plaintiffs have made no substantial showing that the newspapers contain any material evi-
514 dence in support of the plaintiffs' cause of action.

(b) Because the plaintiffs have not shown that said files are in the exclusive custody and control of said defendants and that they cannot secure them elsewhere.

(c) Because said newspapers would not be competent evidence in any event to prove any of the matters therein contained.

VII.

The said defendants should not be compelled to produce "the proceedings of the joint convention of the United Mine Workers of America and the union coal operators beginning with the year 1898 and coming down to and including the proceedings and minutes thereof for the year 1916", for the following reasons:

(a) Because it is known to the plaintiffs and is shown by the deposition of William Green, taken by the plaintiffs, and now on file in this cause, that the only documents answering said description in the possession of defendants are printed volumes purporting to contain the miners' demands presented to such joint conferences, the debates thereon and the wage scale contracts agreed upon by said conferences, and there is no substantial showing that the said defendants have the exclusive custody and control of the said printed volumes

or that the same cannot be secured by the plaintiffs from other sources.

(b) Because there has been no substantial showing by the plaintiffs that said printed documents contain any material evidence in support of plaintiffs' cause of action.

(c) Because the plaintiffs are seeking by said order of production to dispense with the proof of the correctness of any debate or discussion or speech made in said joint conferences.

515 (d) The said printed discussions, debates and speeches are not competent evidence and cannot be proven by the production and use of said printed documents and the plaintiffs have no right to have said printed documents produced by the defendants for the plaintiffs' use at the trial of this cause.

(e) Because the printed report of 1899 which purports to contain the speeches, debates and proceedings of the joint conferences of 1899 was not printed or published by any authority of these defendants, but discloses that it was printed by parties not defendants to this suit.

And, now, said defendants make profert to the court of each and all of said documents in its possession for its inspection in connection with this motion and asks that this motion be granted, that the said defendants be not required to produce said books, papers and documents, and for other relief proper in the premises.

HENRY WARRUM
COVINGTON & GRANT
Attorneys for Defendants.

---

516 Protest of District No. 21 Against the Production of Documents.

Filed in U. S. District Court October 23, 1917.

District No. 21 of the United Mine Workers of America appearing under protest, says:

I.

That it should not be required to produce "the minutes of convention proceedings of District No. 21 of the United Mine Workers of America, including all said minutes and convention proceedings for the years 1914, 1915, and 1916, for the following reasons:

(a) Because there has been no substantial showing by the plaintiffs that said documents contain any material evidence in support of plaintiffs' cause of action.

(b) Because said convention reports are published in printed form and the plaintiffs have not shown that they cannot secure same from other sources.

II.

That said District No. 21 United Mine Workers of America, should not be required to produce "the reports of all officers of District No. 21 of the United Mine Workers of America, Presidents, Vice Presidents, and Secretary-Treasurers of said District covering the period during the years 1914, 1915 and 1916, inclusive", for the following reasons:

(a) Because there has been no substantial showing by the said plaintiffs that said documents contain any material evidence in support of plaintiffs' cause of action.

(b) Because the said reports are published in print-
517 ed form and the plaintiffs have not shown that they cannot secure same from other sources.

III.

That said District No. 21 United Mine Workers of America, should not be required to produce at the trial of this cause "all returned checks in their possession theretofore executed and paid by the several banks to which they were directed, on account of disbursements of the funds of District No. 21 United Mine Workers of America, during the period from April 1, 1914 to January 1, 1916, and all check books containing stubs of checks issued for said purposes during said period", for the following reasons:

(a) Because there has been no substantial showing that said documents contain any material evidence in support of plaintiffs' cause of action.

(b) Because the plaintiffs without disclosing what evidence they seek are undertaking by said order to conduct an exploration of the accounts and finances of said District 21 in the mere hope that they may be able to secure some evidence.

(c) Because such an order would violate the constitutional rights of the members of said District 21 guaranteed them under the Federal Constitution against unreasonable searches and seizures or the compulsion to give testimony against themselves in suits of a penal nature.

The said District No. 21, appearing under protest, now offers to the court for its inspection all of said documents above named which it has in its possession, for examination by the court in connection with this motion, and asks that said motion be granted and for all other proper relief.

HENRY WARRUM
COVINGTON & GRANT
Attorneys for Defendants.

---

518 Protest Of Local Unions Against The Production Of Documents.

Filed in U. S. District Court October 23, 1917.

Local Unions Nos. 560, 586, 1526, 1810, 1842, 1912, 2110, 2494, 2766 2769, 2770, 2772, 2841, 2880, 1530, 2053, 1934, 1814, 2027, 2160, 340, 1130, 1565, United Mine Workers of America, appearing under protest, severally moves the court that it be not required to produce for the plaintiff's use at the trial of said cause the following documents for the reasons herein set out.

I.

That they be not required to produce "the several treasurers reports, expense accounts or memorandums of disbursements of the funds of said Local Union in whatever form the same may be contained by the respective officers or members of said local unions, showing the disbursements for union purposes of the funds of said local unions foi the years 1914, 1916 for the following reasons:

(a) Because plaintiffs have made no substantial showing that said documents contain any material evidence in support of the plaintiffs' cause of action.

(b) Because the plaintiffs are seeking by said order of production to conduct a wholesale exploration of the files and accounts of said local unions in the hope that they may secure some evidence.

(c) Because the constitutional rights of the members of said local unions under the Federal Constitution should protect them against unreasonable searches and seizures
519 or being compelled to furnish evidence against themselves in this action.

II.

The said several local unions above named should not be required to produce for the use of the plaintiffs at this trial

"the list of members of said respective local unions for the years 1914, 1915 and 1916, for the reasons that the plaintiffs have not shown that the production of said list will result in the disclosure of any material evidence in support of plaintiffs' cause of action.

Said several local unions now make profert to the court of all such documents above described, as are in their possession, for the inspection of the court, for the consideration of this motion and pray that this motion be granted, and for all other relief proper in the premises.

HENRY WARRUM
COVINGTON & GRANT
Attorneys for Defendants.

---

520 (Trial, October 24, 1917.)

Before Judge Elliott.

This October 24, 1917, come the parties hereto by their attorneys and comes the jury heretofore impaneled and sworn herein as on yesterday and the trial of this cause proceeds. Having heard the evidence adduced, at the hour of adjournment the further consideration of this cause is postponed until tomorrow morning, 9½ o'clock, and the jury permitted to separate under the admonition of the court until that hour.

---

521 (Trial, October 25, 1917.)

Before Judge Elliott.

This October 25, 1917, come the parties hereto by their attorneys and comes the jury heretofore impaneled and sworn herein as on yesterday and the trial of this cause proceeds. Having heard the evidence adduced, at the hour of adjournment the further consideration of this cause is postponed until tomorrow morning, 9½ o'clock, and the jury permitted to separate under the admonition of the court until that hour.

---

522 (Trial, October 26, 1917.)

Before Judge Elliott.

This October 26, 1917, come the parties hereto by their attorneys and comes the jury heretofore impaneled and sworn herein as on yesterday and the trial of this cause proceeds. Having heard the evidence adduced, at the hour of adjourn-

ment the further consideration of this cause is postponed until tomorrow morning, 9½ o'clock, and the jury permitted to separate under the admonition of the court until that hour.

---

523 (Trial, October 27, 1917.)

Before Judge Elliott.

This October 27, 1917, come the parties hereto by their attorneys and comes the jury heretofore impaneled and sworn herein as on yesterday and the trial of this cause proceeds. Having heard the evidence adduced, at the hour of adjournment the further consideration of this cause is postponed until Monday morning, 9½ o'clock, October 29, 1917, and the jury permitted to separate under the admonition of the court until that hour.

---

524 Motion Of Defendants For Production Of Books, Etc.

Filed in U. S. District Court October 29, 1917.

To the Honorable District Court of the United States, Western District of Arkansas:

Your petitioners, the defendants in the above entitled cause, separately petition and show to the court:

First. That in the above entitled cause the plaintiffs are seeking to recover damages in the sum of $2,220,000.00 alleged to have been suffered by them by reason of the wrongful acts of the defendants in the destruction of the properties of the respective companies, plaintiffs, including damages to the plant, to the development of mining leases, loss of royalties, and of prospective profits, and that they have put in issue and undertaken to prove the investments made in said companies respectively, and the business and property of each.

Second. That on October 27, 1917, the defendants counsel served written requests on plaintiffs counsel to produce for defendants inspection and use at the trial certain books, papers and documents of the plaintiff companies, a copy of which request is attached to this petition as Exhibit A thereto, and made a part hereof.

Third. Upon October 28, 1917, the plaintiffs counsel notified counsel for the defendants that they would not produce said books, papers and documents for the defendants inspection and use at the trial of said cause.

Fourth. Plaintiffs have introduced testimony at the trial of this cause for the purpose of showing investments made by Franklin Bache and H. Denman in the various plaintiff corporations, whereas the defendants are informed
525 and believe that the stock-books, stock-ledgers and books of said plaintiff companies showing the issuance, transfers, holdings of outstanding stock and the cash or other values received therefor, from the organization of the companies down to the appointment of the receivers, and will disclose that no monies whatever or anything of reasonable value were invested in said corporations.

Fifth. Your petitioners state that it is pertinent to the issues involved in this cause for them to show the relations and inter-relations of the plaintiffs companies, the exchanges of leases and authority therefor, the action on promotor's contracts, the execution of notes and other evidences of indebtedness between said companies without consideration, and the authority therefor, and the execution of accommodation paper by one or more of said companies for either of the plaintiff companies; that they believe the minutes of the stockholders and directors meetings, both regular and special, of said several corporations, from the date of their organization down to the appointment of the receiver, will make disclosure of such facts.

Sixth. Your petitioners further state that it has become pertinent to the issues involved in this case to show the receipts and disbursements of the plaintiff companies preceding the appointment of the receiver, the bills receivable and payable, the notes held and outstanding against them, and the accounts of said several plaintiff companies with each of them, and with the Kali-Inla Coal Company, and the accounts of the salary of officers and agents of said companies; and that said accounts, transactions and matters appear in the cash books, ledgers, journals and account books of said companies from the time of the organization of said companies to the 25th of July, 1914.

Seventh. Your petitioners allege that the plaintiffs
526 have a list of the personal property, attachments, machinery, appurtenances, which are referred to in the lease executed by the Cherokee Construction Company to the Prairie Creek Coal Mining Company dated July 1, 1909, which list was not filed for record with the recording of said lease; that said list contains evidence pertinent to the issues involved in this cause in that it discloses the list of properties that were owned by the Cherokee Construction

Company and merely leased to the Prairie Creek Coal Mining Company, whose property is alleged to have been destroyed.

Eighth. That it has become pertinent to the issues of this cause to show what properties, appurtenances, machinery, fixtures and attachments in or about any of the plaintiffs companies mines belong to the Kali-Inla Coal Company at the time of their alleged destruction, and that the plaintiffs have in their possession an accurate list thereof.

Ninth. Your petitioners allege that the plaintiffs have a list or account of the leases and incumbrances placed upon the property of the respective companies, and that proof of such leases and incumbrances are pertinent to the issues in this cause.

Tenth. Your petitioners believe and allege that all of said books, documents and papers are extremely important, pertinent, relative and material to the issues involved in this cause which will tend to support the contention of the defendants with relation to the issues herein. That the petitioners have neither copies nor originals of the books, documents or papers, and cannot procure the same except on order of the court, but that the plaintiffs have possession and control of said books, documents and papers.

Wherefore, the petitioners severally pray:

1. That an order be made directing the plaintiffs and
527 C. H. Finley, and H. P. Hilliard, as receivers and individually, and F. Bache as the President of said plaintiff companies, and C. H. Finley as Secretary of said plaintiff companies, each and every one, directing and requiring them and each of them to produce instanter for the inspection and use of the defendants on the trail of this cause now pending, the books, documents and papers above described, and each and all of them, and for such other relief as may be proper in the premises.

HENRY WARRUM
COVINGTON & GRANT
Attorneys for Defendants.

State of Arkansas
County of Sebastian—ss.

I, P. R. Stewart, one of the defendants in the above entitled cause, on oath state that I have read over the foregoing petition, and the matters and things set forth therein

are, so far as my personal knowledge goes, true, and those things which are not known to me to be true are believed to be true; and that I make this affidavit on behalf of myself and all other defendants in said cause.

P. R. STEWART.

Subscribed and sworn to before me on this the 29th day of October, 1917.

WM. S. WELLSHEAR,
Clerk U. S. Dist. Ct.,
By R. F. Salzman, Deputy Clerk.

Certificate.

I, G. L. Grant, do hereby certify that I am one of the attorneys of the defendants in the above entitled cause; that I am familiar with the complaint and answer in this cause, and that I therefore certify that in my opinion the
528 matters and things called for in the above and foregoing petition are relevant and pertinent and material to the trial of this cause.

G. L. GRANT.

Exhibit A.

(Request of Counsel for Defendants served on Counsel for Plaintiffs to Produce, etc.)

In the District Court of the United States.
Western District of Arkansas.
Fort Smith Division.

Coronado Coal Company, et al., Plaintiffs.
vs.
United Mine Workers of America, et al., Defendants.

To Counsel for Plaintiffs:

We hereby ask you to deliver to us for inspection and use at the trial, the books of the plaintiff companies, Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, the following books, papers and documents:

1. The stock-book, stock-ledger, or other books showing the issuance, transfer and holders of outstanding stock, and

the books showing the amounts received for any stock issued.

2. The minutes of stockholders meetings, both regular and special.

3. Ledgers and journals showing all receipts and disbursements of the plaintiff companies, bills receivable, bills payable, accounts and notes, and all transactions between plaintiff companies with each other and the Kali-Inla Coal Company.

529 4. Also the books containing accounts of the salaries of the officers, and agents of said companies, and payments made thereon.

Said books, papers and documents covering the entire period from the organization of said companies to this date.

Respectfully,

HENRY WARRUM
COVINGTON & GRANT,
Attorneys for Defendants.

This October 27, 1917.

---

530 (Order, October 29, 1917, to Produce certain Books, etc.)

Before Judge Elliott.

This October 29, 1917, come the parties hereto by their attorneys, and defendants file a motion to require plaintiffs and C. H. Finley and H. P. Hilliard, as Receivers and individually, and F. Bache as President of plaintiff companies, and C. H. Finley as Secretary of plaintiff companies, to produce books and papers, etc. Said motion coming on to be heard plaintiffs are given permission to file nunc pro tunc of this date written response to the motion; and the court deeming it desirable that the matter shall be determined now, and being sufficiently advised in the premises, it is ordered that the said motion be and is hereby sustained, and the parties therein named are required to produce such of the books, papers and writings applied for as are in their possession and place them in a room in this building to be supplied by the marshal. Said books, papers and writings shall be in the custody of some person to be selected by plaintiffs and shall be open to the inspection of defendants' counsel.

---

531 (Trial, October 29, 1917.)

Before Judge Elliott.

This October 29, 1917, come the parties hereto by their attorneys and comes the jury heretofore impaneled and sworn herein as on Saturday, October 27, 1917, and trial of this cause proceeds. Having heard the evidence adduced, at the hour of adjournment the further consideration of this cause is postponed until tomorrow morning, 9½ o'clock, and the jury permitted to separate under the admonition of the court until that hour.

---

532 (Trial, October 30, 1917.)

Before Judge Elliott.

This day come the plaintiffs by James B. McDonough, Henry S. Drinker, Jr., Roger B. Hull and Louis W. McKernan, their attorneys, and come the defendants by Messrs. Covington & Grant, Henry Warrum and Tom W. Neal, their attorneys, and comes the jury heretofore impaneled and sworn herein as on yesterday and the trial of this cause proceeds. Having heard the evidence adduced, at the hour of adjournment the further consideration of this cause is postponed until tomorrow morning, 9½ o'clock, and the jury permitted to separate under the admonition of the court until that hour.

---

533 (Trial, October 31, 1917.)

Before Judge Elliott.

This October 31, 1917, come the parties hereto by their attorneys and comes the jury heretofore impaneled and sworn herein as on yesterday and the trial of this cause proceeds. Having heard the evidence adduced, at the hour of adjournment the further consideration of this cause is postponed until tomorrow morning, 9½ o'clock, and the jury permitted to separate under the admonition of the court until that hour.

---

534 (Trial, November 1, 1917.)

Before Judge Elliott.

This November 1, 1917, come the parties hereto by their attorneys and comes the jury heretofore impaneled and sworn herein as on yesterday and the trial of this cause proceeds. Having heard the evidence adduced, at the hour of adjournment the further consideration of this cause is postponed un-

til tomorrow morning, 9½ o'clock, and the jury permitted to separate under the admonition of the court until that hour.

---

535 (Trial, November 2, 1917.)

Before Judge Elliott.

This November 2, 1917, come the parties hereto by their attorneys and comes the jury heretofore impaneled and sworn herein as on yesterday and the trial of this cause proceeds. Having heard the evidence adduced, at the hour of adjournment the further consideration of this cause is postponed until tomorrow morning, 9½ o'clock, and the jury permitted to separate under the admonition of the court until that hour.

---

536 Response to Defendants' Motion for Production of Books, etc.

Filed in U. S. District Court November 2, 1917.

Response of plaintiffs to petition of defendants for the production of Books and Order of court thereon.

Come the plaintiffs and state that they have produced all books, papers and documents called for by the defendants in the defendants' motion filed in this court on October 29, 1917, as is shown by the affidavit of the plaintiff, C. H. Finley, hereto attached and made a part hereof.

ROGER B. HULL,
HENRY S. DRINKER, JR.,
JAMES B. McDONOUGH,
Attorneys for the Plaintiffs.

Affidavit.

C. H. Finley, on oath states that he is one of the plaintiffs' receivers, and as receiver has in his possession and under his control, subject to the orders of this court the books, documents and other papers called for in the motion of the defendants filed in this court on October 29, 1917, and the order of the court thereon.

The said Finley further states that he has produced said books as required by the order of the court and the same have been offered to the representatives of the defendants for examination and said books are now in the room provided by the marshal for said books and have been there from October

30 down to the present time. The documents, books and papers which the said Finley has produced and located in the room designated by the marshal as above set forth comprise and include all the books, documents and papers called
537 for in the motion of the defendants and the order of the court.

CLYDE H. FINLEY.

Subscribed and sworn to before me this 2 day of November, 1917.

(Notarial Seal) D. E. GUSTAFSON,
Notary Public.

My Commission Expires:

---

538 Stipulation as to Testimony of Ed Parrish and Mrs. Eva Trannell.

Filed in U. S. District Court November 2, 1917.

It is expressly agreed and understood by and between Roger B. Hull, counsel for plaintiffs, and Webb Covington, counsel for defendants herein, that the testimony of Ed Parrish if taken by deposition or given orally in open court would be the same as that of his brother J. A. Parrish, whose testimony was taken before George F. Bentley, Esq., Notary Public, at Liberty Island, New York City, on September 17, 1917, which deposition is now on file in said United States District Court and is a part of the record in the above cause; that the same may be read as the testimony of the said Parrish, subject to any and all exceptions as to competency, relevancy and materiality, which it is agreed may be made and urged at the trial of this cause, the same as agreed and set forth in the stipulation in reference to the deposition of J. A. Parrish.

It is further agreed and stipulated that the testimony as heretofore given by Mrs. Eva Trannell on behalf of the Government in the case of P. R. Stewart, et al. vs. United States of America, and set out in full in printed record thereof, beginning at the bottom of page 486 and ending on page 494, may be read upon the trial of this case by the plaintiffs, the same as if it had been taken by deposition in this cause, subject however to any and all objections that may be made by the defendants, or either of them, and it is expressly agreed that

any such objections may be made and presented to the court and urged upon the trial of this cause.

ROGER B. HULL,
Attorney for plaintiffs.

COVINGTON & GRANT,
Attorneys for Defendants.

---

539 (Trial, November 3, 1917.)

Before Judge Elliott.

This November 3, 1917, come the parties hereto by their attorneys and comes the jury heretofore impaneled and sworn herein as on yesterday and the trial of this cause proceeds. Having heard the evidence adduced, at the hour of adjournment the further consideration of this cause is postponed until Monday morning, 9½ o'clock, November 5, 1917, and the jury permitted to separate under the admonition of the court until that hour.

---

540 (Trial, November 5, 1917.)

Before Judge Elliott.

This November 5, 1917, come the parties hereto by their attorneys and comes the jury heretofore impaneled and sworn herein as on Saturday, November 3, 1917, and the trial of this cause proceeds. Having heard the evidence adduced, at the hour of adjournment the further consideration of this cause is postponed until tomorrow morning, 9½ o'clock, and the jury permitted to separate under the admonition of the court until that hour.

---

541 (Trial, November 6, 1917.)

Before Judge Elliott.

This November 6, 1917, come the parties hereto by their attorneys and comes the jury heretofore impaneled and sworn herein as on yesterday and the trial of this cause proceeds. Having heard the evidence adduced, at the hour of adjournment the further consideration of this cause is postponed until tomorrow morning, 9½ o'clock, and the jury permitted to separate under the admonition of the court until that hour.

---

542 (Trial, November 7, 1917.)

Before Judge Elliott.

This November 7, 1917, come the parties hereto by their attorneys and comes the jury heretofore impaneled and sworn herein as on yesterday and the trial of this cause proceeds. Having heard the evidence adduced, at the hour of adjournment the further consideration of this cause is postponed until tomorrow morning, 9½ o'clock, and the jury permitted to separate under the admonition of the court until that hour.

---

543 (Trial, November 8, 1917.)

Before Judge Elliott.

This November 8, 1917, come the parties hereto by their attorneys and comes the jury heretofore impaneled and sworn herein as on yesterday and the trial of this cause proceeds. Having heard the evidence adduced, at the hour of adjournment the further consideration of this cause is postponed until tomorrow morning, 9½ o'clock, and the jury permitted to separate under the admonition of the court until that hour.

---

544 (Trial, November 9, 1917.)

Before Judge Elliott.

This November 9, 1917, come the parties hereto by their attorneys and comes the jury heretofore impaneled and sworn herein as on yesterday and the trial of this cause proceeds. Having heard the evidence adduced, at the hour of adjournment the further consideration of this cause is postponed until tomorrow morning, 9½ o'clock, and the jury permitted to separate under the admonition of the court until that hour.

---

545 (Trial, November 10, 1917.)

Before Judge Elliott.

This November 10, 1917, come the parties hereto by their attorneys and comes the jury heretofore impaneled and sworn herein as on yesterday and the trial of this cause proceeds. Having heard the evidence adduced, at the hour of adjournment the further consideration of this cause is postponed until Monday morning, 9½ o'clock, November 12, 1917, and the jury permitted to separate under the admonition of the court until that hour.

---

546 (Trial, November 12, 1917.)

Before Judge Elliott.

This November 12, 1917, come the parties hereto by their attorneys and comes the jury heretofore impaneled and sworn herein as on Saturday, November 10, 1917, and the trial of this cause proceeds. Having heard the evidence adduced, at the hour of adjournment the further consideration of this cause is postponed until tomorrow morning, 9½ o'clock, and the jury permitted to separate under the admonition of the court until that hour.

---

547 (Trial, November 13, 1917.)

Before Judge Elliott.

This November 13, 1917, come the parties hereto by their attorneys and comes the jury heretofore impaneled and sworn herein as on yesterday and the trial of this cause proceeds.

At the conclusion of the evidence on behalf of plaintiffs in chief the defendants filed motion to strike out certain testimony, which motion is by the court overruled without prejudice to a renewal thereof during the progress of the trial. To the action of the court on overruling said motion defendants severally excepted at the time.

At the conclusion of the evidence on behalf of plaintiffs in chief defendants United Mine Workers of America, the international organization, John P. White and John P. White, President of the United Mine Workers of America, Frank J. Hayes and Frank J. Hayes, Vice President of the United Mine Workers of America, and William Green and William Green, Secretary-Treasurer of the United Mine Workers of America, file motion to have a directed verdict in their favor, which motion is by the court overruled without prejudice to a renewal thereof during the progress of the trial. To the action of the court in overruling said motion the said defendants severally excepted at the time.

Having heard the further testimony adduced, at the hour of adjournment the further consideration of this cause is postponed until tomorrow morning, 9½ o'clock, and the jury permitted to separate under the admonition of the court until that hour.

---

548 Defendants' Motion to Strike Out Certain Testimony.

Filed in U. S. District [—] November 13, 1917.

The defendants separately move to strike out the article read by plaintiffs in evidence from the Mine Workers Journal of July 23rd, 1914, page 4, entitled "Truth about Hartford, Arkansas", for the reason that article shows on its face that it is the expression of the editor of a newspaper and not an official statement which would bind the International Organization, and is not competent, being in the nature of hearsay; further that it does not tend to establish any issuable fact in this case; further that the complaint does not proceed on any theory that the International Organization is liable by reason of having ratified the acts complained of, or contain any averment to that effect; and that no averment, or testimony, to the effect that the acts complained of were committed by anyone in the name of the International Organization, so that such acts might be a proper subject of ratification by it.

Also the article read from said Journal of July 30th, 1914, fourth column, page 2, entitled "Miners wait contempt Decision of United States Judge", for the same reasons, and also secure it purports to be a news article, and is not competent on any theory.

Also the article from said Journal of July 30th, 1914, entitled "Bravo", and being contributed by Eugene V. Debs, for the same reason, and because it shows on its face that it is a contributed article by one not a member of the
549 United Mine Workers of America, or charged with participating in the alleged conspiracy.

Also the article from said Journal of August 6th, 1914, page 5, entitled "From Tennessee" for the same reasons.

Also the article from said Journal of November 19th, 1914, entitled "Federal Troops Encamped Near Prairie Creek No. 3", for the same reasons, and for the further reason that it was published more than two months after the institution of this suit, appeared at a time when these defendants were called on to defend themselves against such suit, and is not competent to show any ratification at the time said suit was instituted.

Also the article from said Journal of December 3, 1914, page 4, entitled "Resistance to Lawlessness a Duty", and the article from said Journal of November 26, 1914, entitled "Causes That Led to Trouble in Arkansas" for all the above

reasons; and the said defendants severally move that said articles and each of them be now stricken from the record for each and all of the reasons given.

The defendants separately move to strike out the testimony introduced by plaintiffs in the deposition of William Green relating to the expense accounts of James Mullen, K. C. Adams, and John P. Moran; also the plaintiffs' Exhibit 189, being the expense account of John P. White for April, 1914; also Exhibit 190, being the expense account of James Mullen for April, 1914, and each of them, for the reason that no proof has been offered connecting them with the transactions involved in this cause, and because without such connecting proof this evidence, and each item thereof, does not tend to establish any issuable fact in this case, and that by
550 the process of basing an inference on an inference could they be construed to establish any liability on the part of the International Organization.

The defendants separately move to strike out the plaintiffs' exhibit marked "Green Deposition No. 2", being the contract between the United Mine Workers and Operators of the Central Competitive Field, made at Chicago in 1898, for the reason that the same has not been connected by other proof with the acts complained of, and does not tend to establish any issue or issuable fact in this cause.

The defendants separately move to strike out the extract read in evidence by plaintiffs counsel from the minutes of the Executive Board of the International Organization of November 30, 1914, relating to a communication from Mr. Covington, for the reasons that the same appears on its face to be the communication of advices and matters received in a privileged communication from attorney to client, the client being the International Organization, the communication being addressed by its attorney to its President and by him referred to its Executive Board, and for the further reason that the proceedings and statements occurred more than two months after the institution of this suit, related to matters of its general defense and are not competent to show nor tend to show ratification of the acts complained of at the time of the institution of this suit.

The defendants separately move to strike out all extracts introduced in evidence by plaintiffs from the joint conference reports of the United Mine Workers and operators of the central competitive field, for the reasons that these printed documents are not the best evidence of such proceedings and are not competent evidence; that no proper foundation there-

for has been laid; that the statements read purport to be debates and discussions and not admissions of co-
551 conspirators and do not tend to establish any conspiracy on the part of the United Mine Workers of America, as alleged in the complaint.

Also the extracts from the proceedings of the Annual Convention of the United Mine Workers of America for 1916 being the report of the Committee on Credentials, also the extracts from the same volume being parts of the report of President White; also the extracts from volume 2 of the said proceedings of 1916 being part of the report of the Committee on officers Reports on page 724 thereof; also the extract from the proceedings of the Annual Convention of District No. 21, on page 125 relating to the floor privileges being granted Mr. Dalrymple as a National Organizer, and to strike out each and all of said extracts for the reasons above given, and for the further reason that ratification is not an issuable fact in this cause.

Also the extract from the Miners Journal of December 3, 1914, on page 13 thereof; also the extract read by plaintiffs from the Journal of April 15, 1915, page 5, entitled "Ludlow and Hartford", also the extract read from page 10 of the Journal of October 14, 1915; and the said defendants severally move that said articles and each of them be now stricken from the record for each and all of the reasons given.

HENRY WARRUM
COVINGTON & GRANT
Attorneys for Defendants.

552 Motion of United Mine Workers of America, Et Al, for Directed Verdict.

Filed in U. S. District Court November 13, 1917.

The defendants United Workers of America, the International Organization, John P. White and John P. White, President of the United Mine Workers of America, Frank J. Hayes and Frank J. Hayes, Vice-President of the United Mine Workers of America, and William Green and William Green, Secretary-Treasurer of the United Mine Workers of America, separately move and petition the court for an instruction to the jury directing that a verdict be now returned for said defendants and each of them.

HENRY WARRUM
COVINGTON & GRANT
Attorneys for Defendants.

553 (Trial November 14, 1917.)

Before Judge Elliott.

This November 14, 1917, come the parties hereto by their attorneys and comes the jury heretofore impaneled and sworn herein as on yesterday and the trial of this cause proceeds. Having heard the evidence adduced, at the hour of adjournment the further consideration of this cause is postponed until tomorrow morning, 9½ o'clock, and the jury permitted to separate under the admonition of the court until that hour.

---

554 (Trial, November 15, 1917.)

Before Judge Elliott.

This November 15, 1917, come the parties hereto by their attorneys and comes the jury heretofore impaneled and sworn herein as on yesterday and the trial of this cause proceeds. Having heard the evidence adduced, at the hour of adjournment the further consideration of this cause is postponed until tomorrow morning, 9½ o'clock, and the jury permitted to separate under the admonition of the court until that hour.

---

555 (Trial, November 16, 1917.)

Before Judge Elliott.

This November 16, 1917, come the parties hereto by their attorneys and comes the jury heretofore impaneled and sworn herein as on yesterday and the trial of this cause proceeds. Having heard the evidence adduced, at the hour of adjournment the further consideration of this cause is postponed until tomorrow morning, 9½ o' clock, and the jury permitted to separate under the admonition of the court until that hour.

---

556 (Trial, November 17, 1917.)

Before Judge Elliott.

This November 17, 1917, come the parties hereto by their attorneys and comes the jury heretofore impaneled and sworn herein as on yesterday and the trial of this cause proceeds and the remainder of the evidence is heard.

At the conclusion of the evidence defendants renew their motion filed November 13, 1917, to strike out certain testimony.

At the conclusion of the evidence the defendants United Mine Workers of America, being the international organization thereof, John P. White and John P. White as President of the United Mine Workers of America, Frank J. Hayes and Frank J. Hayes as Vice President of the United Mine Workers of America, and William Green and William Green as Secretary-Treasurer of the United Mine Workers of America, file motion for directed verdict in their favor.

At the conclusion of the evidence defendants P. R. Stewart and P. R. Stewart as President of the United Mine Workers of America District No. 21, and other defendants named in the motion, file motion for directed verdict in their favor.

At the conclusion of the evidence plaintiffs file motion to strike out certain questions and answers of the witness John P. White.

At the hour of adjournment the further consideration of this cause is postponed until Monday morning, 9 o'clock, November 19, 1917, and the jury permitted to separate under the admonition of the court until that hour.

557 Motion of United Mine Workers of America, et al., for Directed Verdict.

Filed in U. S. District Court November 17, 1917.

Now come the United Mine Workers of America, being the International Organization thereof, John P. White, and John P. White as President of the United Mine Workers of America; Frank J. Hayes, and Frank J. Hayes as Vice-President of the United Mine Workers of America; William Green, and William Green as Secretary-Treasurer of the United Mine Workers of America, at the conclusion of the introduction of evidence in said cause, and separately and severally move the court to instruct the jury to return a verdict for said defendants, and each of them, for the reason that the evidence is insufficient to warrant a verdict for the plaintiffs or either of them against the defendants or either of them.

TOM NEAL
HENRY WARRUM
COVINGTON & GRANT
Attorneys for Defendants.

558 Motion of P. R. Stewart, et al., for Directed Verdict.

Filed in U. S. District Court November 17, 1917.

Come now P. R. Stewart and P. R. Stewart as President of the United Mine Workers of America, District No. 21; Fred Holt; William McLaughlin, and William McLaughlin as President of United Mine Workers of District No. 21; Tom King and Tom King, as Board Member of United Mine Workers of America; Edward Cunningham and Edward Cunningham as President of District No. 21, United Mine Workers of America; Local Union 340, United Mine Workers of America; Local Union No. 560, United Mine Workers of America; Local Union No. 586, United Mine Workers of America; Local Union No. 1130, United Mine Workers of America; Local Union No. 1526, United Mine Workers of America; Local Union No. 1530, United Mine Workers of America; Local Union No. 1565, United Mine Workers of America; Local Union No. 1810, United Mine Workers of America; Local Union No. 1814, United Mine Workers of America; Local Union No. 1842, United Mine Workers of America; Local Union No. 1912, United Mine Workers of America; Local Union No. 1934, United Mine Workers of America; Local Union No. 2027, United Mine Workers of America; Local Union No. 2053, United Mine Workers of America; Local Union No. 2110, United Mine Workers of America; Local Union No. 2160, United Mine Workers of America; Local Union No. 2494, United Mine Workers of America; Local Union No. 2766, United Mine Workers of America; Local Union No. 2769, United Mine Workers of America; Local Union No. 2770, United Mine Workers of America; Local Union No. 2772, United Mine Workers of America; Local Union No. 2841, United Mine Workers
559 of America, and Local Union No. 2880, United Mine Workers of America, who appear under protest, at the conclusion of the introduction of evidence in said cause, and separately and severally move the court to instruct the jury to return a verdict for said defendants, and each of them, for the reason that the evidence is insufficient to sustain or warrant a verdict for the plaintiffs or either of them against the defendants or either of them.

TOM NEAL
HENRY WARRUM
COVINGTON & GRANT
Attorneys for Defendants.

560 Motion to Strike out Certain Questions and Answers of the Witness, John P. White.

Filed in U. S. District Court November 17, 1917.

Come the plaintiffs, and move the court separately on each question and answer set out below to strike from the record herein separately and severally the following questions and answers of the witness, John P. White, to-wit:

"Q. Was the labor difficulties between the plaintiff companies and the union miners at Prairie Creek, Arkansas, during June, July, and August, 1914, within the jurisdiction of the international organization, its executive board or its officials? A. No sir."

The plaintiffs move to exclude the above question and answer thereto upon the ground that the Constitution of the United Mine Workers of America, is the best evidence of the jurisdiction and powers of the national union as well as the jurisdiction and powers of the local unions.

Under Article 3, Section 2 of the National Constitution of the United Mine Workers of America, District 21 could be chartered only by the national or international union. The charter of the district as well as the Constitution of the United Mine Workers of America are the best evidence of the jurisdiction and powers of the Districts and Local Unions.

Premises considered the plaintiffs move the court to strike the above question and answer from the evidence herein, and to direct the jury that they are not to consider said question and answer in any way whatever.

---

561 (Trial, November 19, 1917.)

Before Judge Elliott.

This November 19, 1917, come the parties hereto by their attorneys and comes the jury heretofore impaneled and sworn herein as on Saturday, November 17, 1917, and the trial of this cause proceeds.

The motion of defendants United Mine Workers of America, being the International organization thereof, John P. White and John P. White as President of the United Mine Workers of America, Frank J. Hayes and Frank J. Hayes as Vice President of the United Mine Workers of America, and William Green and William Green as Secretary-Treas-

urer of the United Mine Workers of America, for a directed verdict in their favor, filed at the conclusion of the evidence, having been argued by counsel and submitted, the court being now well and sufficiently advised in the premises doth overrule said motion. To the action of the court in overruling said motion the said defendants and each of them duly excepted at the time.

The motion of P. R. Stewart and P. R. Stewart as President of the United Mine Workers of America District No. 21, and other defendants therein named, for a directed verdict in their favor, filed at the conclusion of the evidence, having been argued by counsel and submitted, the court being now well and sufficiently advised in the premises doth overrule said motion. To the action of the court in overruling said motion the defendants named in said motion and each of the duly excepted at the time.

562 The motion of defendants to strike out certain testimony filed November 13, 1917, and renewed at the conclusion of the evidence, having been argued by counsel and submitted, the court being now well and sufficiently advised in the premises doth overrule the same. To the action of the court in overruling said motion the defendants and each of them duly excepted at the time.

The motion of plaintiffs to strike out certain questions and answers of the witness John P. White, filed at the conclusion of the evidence, having been argued by counsel and submitted, the court being now well and sufficiently advised in the premises doth overrule said motion. To the action of the court in overruling said motion plaintiffs duly excepted at the time.

Whereupon, the argument by counsel to the jury is begun and at the hour of adjournment the further consideration of this cause is postponed until tomorrow morning, 9 o'clock, and the jury permitted to separate under the admonition of the court until that hour.

---

563 (Trial, November 20, 1917.)

Before Judge Elliott.

This November 20, 1917, come the parties hereto by their attorneys and comes the jury heretofore impaneled and sworn herein as on yesterday and the trial of this cause proceeds. Having heard the argument of counsel and receiving

the charge of the court the jury retired for deliberation, and it is ordered that until discharged by the court the jury remain together in a body in charge of the mashal.

---

564 (Trial, November 21, 1917.)

Before Judge Elliott.

This November 21, 1917, come the parties hereto by their attorneys and comes the jury heretofore impaneled and sworn herein as on yesterday, and having received the further instructions of the court the jury retired for further deliberation in charge of the marshal.

---

565 (Verdict and Judgment, November 22, 1917.)

Before Judge Elliott.

This November 22, 1917, come the plaintiffs by James B. McDonough, Henry S. Drinker, Jr., and Roger B. Hull, their attorneys, and come the defendants by Messrs. Covington & Grant, their attorneys, and now comes the jury heretofore empaneled and sworn herein and returns into court the following verdict, to-wit:

"We, the Jury, find the issues in favor of the plaintiffs and against the defendants and assess plaintiffs' actual damages at $200,000. John Dunagin, Foreman."

Whereupon, the jury is discharged from the further consideration of this cause.

And now upon the verdict of the jury here returned and in accordance with the law applicable to this case providing that the recovery shall be threefold the damages sustained, it is by the court considered, ordered and adjudged that the plaintiffs' recovery herein against the defendants be in threefold Two Hundred Thousand Dollars actual damages assessed by the verdict, that, is, in the sum of Six Hundred Thousand Dollars.

It is therefore by the court considered, ordered and adjudged that the plaintiffs Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache-Denman Coal Company, Hartford Coal Company, Sebastian County Coal Company, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company, each and all by C. H. Finley and H. P. Hilliard Receivers, and C. H. Finley and H. P. Hilliard, Re-

ceivers, have and recover of and from the defendants
566 United Mine Workers of America, District No. 21 of the United Mine Workers of America, John P. White, P. R. Stewart, Fred Holt, John P. White as President of the United Mine Workers of America, P. R. Stewart as President of the United Mine Workers of America, District No. 21 William McLaughlin, William McLaughlin as President of United Mine Workers of America District No. 21, Tom King, Tom King as Board Member of United Mine Workers of America, Jess Edwards, Charley Farley, Edward Cunningham, Edward Cunningham as President of District No. 21 United Mine Workers of America, Frank J. Hayes, Frank J. Hayes as Vice-President of United Mine Workers of America, William Green, William Green as Secretary-Treasurer of the United Mine Workers of America, Joe Overman, O. A. Brooke, Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charles Hendricks, Jim Lee, Jake Thompson, George Burnett, Pink Dunn, Jim McNamara, Pete McMullen, John Mastell, James Slankard, Local Union No. 340, United Mine Workers of America, Local Union No. 374, United Mine Workers of America, Local Union No. 560, United Mine Workers of America, Local Union No. 586, United Mine Workers of America, Local Union No. 1130, United Mine Workers of America, Local Union No. 1159, United Mine Workers of America, Local Union No, 1526, United Mine Workers of America, Local Union No. 1530, United Mine Workers of America, Local Union No. 1565, United Mine Workers of America, Local Union No. 1810, United Mine Workers of America, Local Union No. 1814, United Mine Workers of America, Local Union No. 1824, United Mine Workers of America, Local Union No. 1842, United Mine Workers of America, Local Union No. 1912, United Mine Workers of America, Local Union No. 1934, United Mine Workers of America, Local Union No. 2027, United Mine Workers
567 of America, Local Union No. 2053, United Mine Workers of America, Local Union No. 2110, United Mine Workers of America, Local Union No. 2160, United Mine Workers of America, Local Union No. 2316, United Mine Workers of America, Local Union No. 2494, United Mine Workers of America, Local Union No. 2766, United Mine Workers of America, Local Union No. 2769, United Mine Workers of America, Local Union No. 2770, United Mine Workers of America, Local Union No. 2772, United Mine Workers of America, Local Union No. 2841, United Mine Workers of America, Local Union No. 2880, United Mine Workers of America, M. B. Appleby, Bruce Jordan, Whit Miller, Ed Baker, H. S. Treadway, G. G. Daniels, John Tur-

nipseed, Lewis Evans, Joe Coneoda, B. Trout, Joe Assola, Joe Kervillas, Wm. Rodden, Charles Blackburn, Joe Lanier, Albert Hunter, Rich Handlin, Scott Adkins, Frank Petty, Claud Litchford, John Litchford, Otto Alimen, Carey Crumpton, Sam Wooten, Marion Hulsey, Maje Hulsey, Tom Watson, Derwood Warren, Harry Birkett, Willis Congo, Leslie Congo, Bud Congo, Charles McKown, J. W. Howard, Bud Williams, (Col), Wm. Price, Peter McMullen, Jr., John Murray, John T. W. Davis, Brock Smith, (Col), Ed Kehee, the said sum of Six Hundred Thousand Dollars, together with all costs by the plaintiffs in this behalf laid out and expended, including a reasonable attorney's fee to be fixed by the court.

On motion of the defendants it is by the court considered and ordered that all proceedings upon this judgment be, and are hereby, stayed for the period of ninety days from this date, and the defendants are allowed the said period of ninety days in which to file their bill of exceptions herein.

---

568 Motion For Allowance Of Interest On Judgment.

Filed in U. S. District Court November 26, 1917.

Motion of Plaintiffs to Correct Judgment Entry by Adding to the $600,000 for which Judgment was Rendered, Interest on $200,000, amount of Verdict.

Come the plaintiffs and, after due notice to counsel for the defendants, move the court to correct the amount of the judgment herein, by adding to the $600,000.00, for which judgment was rendered on Thursday, November 22, interest on the $200,000.00, from July 17, 1914 to November 22, 1917, being a period of three years, four months and six days, interest being calculated at 6% per annum.

In support of this motion, and as grounds therefor, the plaintiffs respectfully show to the court that they are entitled to have added to the said sum of Six Hundred Thousand Dollars ($600,000.00), the additional sum of One Hundred Twenty Thousand Six Hundred ($120,600.00) Dollars, making the total amount, for which judgment should have been rendered on November 22, 1917, the sum of Seven Hundred Twenty Thousand Six Hundred ($720,600) Dollars.

On the pleadings and the instructions of the court, and the verdict the plaintiffs are entitled to have said judgment for $600,000.00 corrected by adding thereto the said additional sum of $120,600.00. Under the court's instruction to

the jury, which declared the law, the jury were permitted and authorized to find as of date July 17, 1914, the damages suffered by the plaintiffs on that date. The jury
569 found the damages suffered by the plaintiffs on that date and prior thereto at the sum of Two Hundred Thousand Dollars ($200,000.00). Under the Act of July 2, 1890, known as the Sherman Anti-Trust Act, found in United States Statutes at Large, Vol. 26, page 209, under which Act this suit was brought, and upon the verdict of the jury, the plaintiffs' damages are found by the jury at $200,000, as of date July 17, 1914. Under said Act of Congress referred to and under Section 7 thereof, the interest on the damages from July 17, 1914 to the date of the verdict is a part of the damages sustained by the plaintiffs by reason of the wrongs of the defendants, as set forth in the complaint and found by the jury. The interest on $200,000 at 6% per annum, from July 17, 1914, to November 22, 1917, inclusive, being three years, four months, and six days, amounts to Forty Thousand Two Hundred Dollars ($40,200.00). This interest is a part of the damages suffered by the plaintiffs. Under Section 7 of said Act of Congress, therefore, this interest must be trebled, making a total of damages and interest to be added to the Six Hundred Thousand Dollars ($600,000), of One Hundred Twenty Thousand Six Hundred Dollars ($120,600.00).

Premises considered, the plaintiffs pray that the court enter an order, correcting said judgment by adding to the sum of $600,000.00 the sum of $120,600.00, and making said judgment read Seven Hundred [Twenth] Thousand Six Hundred oDllars ($720,600.00), instead of $600,000.00.

ROGER B. HULL
HENRY S. DRINKER, JR.
JAMES B. McDONOUGH
Counsel for Plaintiffs.

---

570 Motion Of Plaintiffs To Tax A Reasonable Attorneys' Fee.

Flied in U. S. District Court December 8, 1917.

Come the plaintiffs and having withdrawn their former motion to tax an attorney's fee herein, respectfully move the court to tax in their behalf as costs under Section 7 of the Act of Congress, under which this suit was brought, a reasonable attorney's fee. If the court desires evidence on the amount of said attorney's fee, the plaintiffs are ready

and willing to offer proof at such time and place as the court may fix.

Premises considered the plaintiffs pray that said attorney's fee be fixed at a reasonable amount and that the same be taxed as costs herein, under Section 7 of said Act of Congress.

ROGER B. HULL
HENRY S. DRINKER, JR.
JAMES B. McDONOUGH
Attorneys for Plaintiffs.

---

571 Motion Of United Mine Workers Of America, Et Al, For A Judgment Notwithstanding The Verdict.

Filed in U. S. District Court January 8, 1918.

The defendants, United Mine Workers of America, District No. 21 of the United Mine Workers of America, Local Unions No. 340, 560, 1130, 1526, 1530, 1565, 1810, 1814, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2494, 2766, 2769, 2770, 2772, 2841, 2880, 374 and 586, of the United Mine Workers of America, without waiving any of their respective rights under their motions to quash and please to the jurisdiction of this court heretofore filed and overruled, and reserving all rights under said motions and insisting upon the same and protesting against being required to proceed further herein, severally move the court for a judgment notwithstanding the verdict in this case, for the following reasons, towit:

I.

That the evidence discloses that the aforesaid defendants have no legal entity but that each of said defendants is a voluntary unincorporated association having no business and not conducted for benefit, and that it does not exist apart from the individual members who compose it; that there is no authority in law for holding the said association in its association name responsible for the torts of its members.

II.

That there is no legal evidence that tends to prove that the said defendant authorized anyone to commit the torts
572 that are alleged to have been committed, or that tends to prove that the defendant committed the torts, or that tends to prove that the defendant ratified said alleged torts after their commission.

III.

That the evidence in this case does not tend to prove that the defendant is, or was, a member of or a party to a conspiracy, combination, contract, agreement or understanding among themselves, or with any other corporations, individuals, firms or persons to restrain or interfere with the production, loading, shipment and sale of coal in interstate commerce or trade.

IV.

That if it be true that there was a contract, agreement, combination or conspiracy entered into among the defendants and other persons, corporations, individuals or firms to interfere with or prevent the production, shipment, loading and sale of coal by non-union mines, the evidence in this case proves without contradiction that the plaintiffs and each of them were members of and parties to such conspiracy, combination, contract, agreement and understanding, and that the alleged torts were the result of the said conspiracy, combination, contract, agreement or understanding, of which the said plaintiffs were members of and parties to and for that reason the plaintiffs cannot recover in this action as against these defendants, they having assisted in the building up of said illegal conspiracy, etc., and putting in motion the machinery which is alleged to have destroyed their own property.

V.

That the evidence in this case proves that the defendant labor unions, and each of them, are not a monopoly, but that every person who works in and about coal mines is eligible to membership in said organization and is not dis-
573 criminated against on account of race or color, and is not compelled to join said labor union, but may do so voluntarily.

VI.

That said defendant is not engaged in the business of buying, selling or dealing in coal, but that the members of said labor union perform labor in and about coal mines in producing and loading coal and that whatever wages earned by them is the property of the individual earning it and is not the money or property of the organization as such.

VII.

That the defendants are separate and distinct labor unions governed by a system of laws and by-laws adopted by their

respective members and that neither of said labor unions is legally responsible for the acts or conduct of the other.

VIII.

That the evidence proves that the plaintiffs are separate and distinct and that their interests in the property claimed to have been destroyed are separate and distinct and that neither of said plaintiffs were interested in the property of the other alleged to have been destroyed, and for that reason the defendants and each of them are entitled to a judgment in this action, notwithstanding the verdict.

Wherefore, the defendants severally move the court for a judgment in its behalf, notwithstanding the verdict of the jury in this case, and for all proper relief hereunder.

HENRY WARRUM
COVINGTON & GRANT
Attorneys for Defendants.

---

574 Motion of P. R. Stewart, et al., for a Judgment Notwithstanding the Verdict.

Filed in U. S. District Court January 8, 1918.

Come now P. R. Stewart, Fred Holt, John P. White, Wm. McLachlin, Tom King, Jess Edwards, Charley Farley, Edward Cunningham, Frank J. Hays, Wm. Green, Joe Overman, O. A. Brooks, Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charles Hendricks, Jim Lee, Jake Thompson, George Burnett, Pink Dunn, Jim McNamara, Pete McMullen, John Mastell, James Slankard, M. B. Appleby, Bruce Jordan, Whit Miller, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Joe Coneoda, Bee Trout, and severally move the court for a judgment in their favor notwithstanding the verdict, for the following reasons:

I.

There is no evidence tending to prove that said defendant is, or was, a member of or a party to a conspiracy combination, contract, agreement or understanding, with the defendants named in the complaint, or with any other person, to prevent or interfere with the production, loading and shipment of coal by non-union mines.

II.

There is no evidence tending to prove that the defendant interferred with or prevented the plaintiffs or either of them

from producing, loading and shipping coal, or encouraged anyone else to commit said alleged wrongful acts, or ratified the same.

III.

That if such a conspiracy in fact existed the plaintiffs, and each of them, were parties to it, assisted in creating
575 and building it up, thereby setting in motion the machinery which the plaintiffs severally allege destroyed their property, and therefore the plaintiffs cannot recover in this action.

IV.

That the evidence proves that the plaintiffs are separate and distinct and that their interests in the property claimed to have been destroyed are separate and distinct and that neither of said plaintiffs were interested in the property of the other alleged to have been destroyed and for that reason the defendants and each of them are entitled to a judgment in this action, notwithstanding the verdict.

Wherefore, the defendants severally pray judgment in their behalf, notwithstanding the verdict, and for all other proper relief.

HENRY WARRUM
COVINGTON & GRANT
Attorneys for Defendants.

---

576 (Record Entry, January 8, 1918, of the filing of Motions for Judgment, Notwithstanding the Verdict.)

Before Judge Youmans.

This day come defendants United Mine Workers of America, District No. 21 of the United Mine Workers of America, Local Unions Nos. 340, 560, 1130, 1526, 1530, 1565, 1810, 1814, 1842, 1912, 1934, 2027, 2053, 2110, 2160, 2494, 2766, 2769, 2770, 2772, 2841, 2880, 374 and 586, of the United Mine Workers of America, by G. L. Grant, their attorney, and file motion for judgment, notwithstanding the verdict, in the above entitled cause.

Come also defendants P. R. Stewart, Fred Holt, John P. White, Wm. McLachlin, Tom King, Jess Edwards, Charley Farley, Edward Cunningham, Frank J. Hays, Wm. Green, Joe Overman, O. A. Brooks, Dr. W. C. Chambers, Tom Kiger, Mike Cisco, Charles Hendricks, Jim Lee, Jake Thompson, George Burnett, Pink Dunn, Jim McNamara, Pete McMullen, John Mastell, James Slankard, M. B. Appleby, Bruce Jordan,

Whit Miller, Ed Baker, H. S. Treadway, G. G. Daniels, John Turnipseed, Lewis Evans, Joe Coneoda, Bee Trout, by G. L. Grant, their attorney, and file motion for judgment, notwithstanding the verdict, in the above entitled cause.

---

577 (Order, January 9, 1918 as of January 4, 1918, continuing hearing of certain motions.)

Before Judge Elliott.

On this day on motion of the plaintiffs in the above entitled cause, it is ordered by the court that the motion to add interest to the judgment filed herein on the 26th day of November, 1917, and also the motion to tax an attorney's fee, be postponed to some date in the January Term of said court, the rights of both plaintiffs and defendants on each of said motions being fully preserved herein.

It is further ordered that the clerk file this order in this cause as of date January 4, 1918.

It is further ordered that the motions of the defendants for judgment notwithstanding the verdict be also in the same way postponed to some date in the January Term.

JAS. D. ELLIOTT
Judge.

This order received January 9, 1918, and is filed and entered of record on that date, as of date January 4, 1918, as therein directed.

WM. S. WELLSHEAR,
Clerk.

---

578 Order Overruling Motions for Judgment Nothwithstanding Verdict.

Entered in U. S. District Court February 11, 1918.

James D. Elliott, Judge.

On this day came on for hearing the motion of the United Mine Workers of America for a judgment, notwithstanding the verdict; also the motion of P. R. Stewart and others for judgment, nothwithstanding the verdict.

Upon a hearing upon said motions and the court being sufficiently advised in the premises, each of said motions is by the court overruled and each of the defendants excepts to the action of the court in overruling each of said motions, and

the clerk is hereby ordered to enter this order of record in this cause.

Dated at Sioux Falls, South Dakota, this 7th day of February, A. D. 1918.

By the court:

JAS. D. ELLIOTT
Judge.

Received, filed and entered February 11, 1918.

WM. S. WELLSHEAR,
Clerk.

---

579 Order Granting Further Stay of Proceedings.

Entered in U. S. District Court February 11, 1918.

JAMES D. ELLIOTT,
Judge.

It is hereby ordered, that the stay of proceedings heretofore entered be and the same is hereby extended thirty days from the expiration thereof.

Dated at Sioux Falls, South Dakota, this 7th day of February, A. D. 1918.

By the court:

JAS. D. ELLIOTT
Judge.

Received, filed and entered February 11, 1918. Wm. S. Wellshear, Clerk.

---

580 Bill of Exceptions.

Be it remembered that on the trial of this cause in this court at the June Term, 1917, of said court, the Honorable James D. Elliott, Judge presiding, when the following proceedings were had, to-wit:

581 On October 23, 1917, after the jury had been impaneled to try this cause and before the opening statements had been made to the jury, the defendants United Mine Workers of America, District 21 of the United Mine Workers of America, and Local Unions Nos. 560, 586, 1526, 1810, 1842, 1912, 2110, 2494, 2766, 2769, 2770, 2772, 2841, 2880, 1530, 2053, 1934, 1814, 2027, 2160, 340, 1130, 1565, present to the court their several protests against the compulsory production of books, docu-

ments and papers to be used by the plaintiffs in evidence on the trial of the case. The said motions are as follows, to-wit:

(Note by Clerk of District Court: Here are set out in the Bill of Exceptions the Protest of United Mine Workers of America, et al, against the production of documents, the Protest of District No. 21 against the production of documents, and the Protest of Local Unions against the production of documents, all filed October 23, 1918. These protests are heretofore set forth in this transcript at [marginal] pages 510, 516 and 518 respectively, and are therefore not recopied here.)

After hearing each of said protests and the court being well and sufficiently advised in the premises, the court overruled each of said protests and ordered the production of said papers, and to the action of the court in overruling each of said protests and ordering the production of said papers for plaintiffs' use at the trial, the said defendants duly reserved their exceptions which were allowed by the court.

---

582 Wednesday, October 24th, 1917, 9:30 a. m.

Pursuant to adjournment, court reconvened on Wednesday, October 24th, 1917, at 9:30, a. m., and the following proceedings were had:

The Court: Proceed, gentlemen.

Mr. Drinker: If the court please, we will offer the deposition of William Green, taken at Indianapolis, Indiana.

The Court: It is my practice to either permit counsel to read the deposition standing, or take the witness stand. What is your practice here?

Mr. McDonough: We usually take the witness stand.

The Court: Very well. Ordinarily we have counsel stand while reading, but you may do as you please, take the stand or stand.

Mr. Drinker: I feel more comfortable here; I have never been on the witness stand.

I now offer and will read the deposition of William Green, taken at Indianapolis on August 20th, and 21st, 1917, before William S. Garber, a notary public, appearances for the plaintiff, Henry S. Drinker, Jr., and for the defendants Henry Warrum and L. Grant.

"The said WILLIAM GREEN, being first duly sworn to testify the truth, the whole truth and nothing but the truth relating to said cause deposes as follows:

Examination-in-Chief:

Questions by Henry S. Drinker, Jr.:

Q. Mr. Green, you are the Secretary of the United Mine Workers of America? A. Yes, sir.

Q. How long have you occupied that position?

A. I think since about August, 1913.

583 Q. And did you occupy any position in the organization prior to that? A. Yes, sir.

Q. What?

A. Well, I served as a sub-district president of the Ohio District for a number of years—as district president in the Ohio District for four years, I think.

Q. Who was secretary before you? Whom did you succeed?"

Mr. Drinker: Shall I read all of the colloquy between counsel?

Mr. Warrum: We are willing that y u should not, except where necessary; there is a great deal of conversation that occurred with reference to objections.

Mr. Drinker: We had arrangements about things that don't bear on the case.

Mr. Warrum: If tnere is anything we want in, we will call your attention to it.

Mr.Drinker: I will just read the questions and answers, and I think I can convey by my voice which is questions and which answers, so as not to read the words question and answer each time.

"Q. Now, who was the secretary before you, Mr. Green—whom did you succeed? A. Mr. Perry.

Q. And how long had he been secretary?

A. I can not recall.

Q. Well, that does not matter. When did Mr. White become president?

A. He became president in 1912, I think, or 1911.

Q. April first? A. April 1, 1911.

Q. When was the United Mine Workers organized?

A. It was organized in 1890.

Q. And it has been in existence continually as an unin-

584 corporated association since that time? A. Yes, sir.

Q. When was the United Mine Workers Journal started?

A. I can not recall the exact date but it was shortly after—to my best recollection shortly after the organization was formed.

Q. You are the manager of the Journal, are you?

A. Not now.

Q. Who is now? A. Mr. Lewis.

Q. What is the rest of his name? A. John L. Lewis.

Q. As Secretary of the organization you have in your custody the papers and documents of the association?

A. Yes, I have all the documents pertaining to my office as Secretary-treasurer.

Q. Have you the custody of the files of the Journal?

A. No.

Q. Will you produce the Journals here now? I want somebody to produce them. If you will not I will ask somebody else.

A. Well, we will produce the files of the Journal, yes. They are not in my custody, but I feel sure that I can produce them.

Q. Then I call upon you to produce the complete files of the Journal from the time of its organization down through the years 1915."

Mr. Drinker: There is some more discussion by counsel.

"Q. Now, Mr. Green, have you copies of transcripts of convention proceedings of the association from 1890 to date?

A. I think we have.

Q. You have complete files of those. Have you duplicates of those?

A. Well now, I do not know. I do not think we have.

Q. How far have you duplicates?

585 A. Well, we probably have duplicates for the last—I should say three or four convention proceedings back.

"Q. Now have you, Mr. Green, copies of the different constitutions of the United Mine Workers from 1890 to date, showing the various changes and amendments which have been incorporation in that document since that time?

A. I feel quite sure that we do not have a complete file.

Q. Will you please produce what you have?

A. If you wish I will put the office force looking up the constitutions while Mr. Adams is looking up the proceedings and it will save time. I will produce them as soon as I can as much as we have here.

Mr. Drinker here furnished the witness a list of the books, papers and documents which he wished produced.

Q. Mr. Green, have any district organizations been organized and then disbanded, that you know of? A. Yes.

Q. Which ones? A. District No. 16.
Q. Where was that?
A. That comprises the Georgia District and the Maryland District.
Q. Fifteen is not here any more. Has that been disbanded —Colorado?
A. Fifteen—the charter of District fifteen has been suspended.
Q. And 26 and 28, have their charters been suspended?
A. They are abandoned.
Q. And 29—that was another one in West Virginia, was it not?
A. The charter there was suspended, but it has been reestablished recently.
Q. Were there ever any districts three and four?
A. Not that I can recall. I can not recall that districts three and four were ever in existence.
586 Q. District No. 19 was disbanded too, was it not—Tennessee? A. Suspended. The charter was suspended.
Q. When these districts were suspended what was the practice? How was that done?
A. The International organization took charge of the territory embraced within the district covered by the charter rights of the district.
Q. How did they do that?
A. The affairs of the district were administered by the International Union instead of by a full and complete set of district officers.
Q. What became of the district officers?
A. They were discontinued.
Q. And if they had any funds they came back to the International Union, did they?
A. Oh, yes; they reverted to the International Union.
Q. By what kind of a resolution or action was that done? By a resolution of the International?
A. The resolution of the Executive Board.
Q. They would pass a resolution that the district was suspended or abandoned and then notify the district officers, would they? Where a district was suspended they would pass a resolution that the district was suspended and notify the district officers to that effect? A. Yes sir.
Q. Then would the district officers go out of office when a district was suspended? A. Automatically.
Q. What would be the difference between the suspension of a district and the abandonment of it?

A. Well, the difference is this: That a suspension of a district merely means that the district autonomy has been
587 suspended, and that the International Union itself directly administers the affairs of the district. The work within that district goes along under the authority and control and direction of the International Union instead of under the control of district officers. Usually the suspension is temporary and later on the charter and the district and all its rights are restored. When a district is abandoned the charter and supplies for the district are withdrawn, and all activity.

Q. Then it is just as if it never had existed?

A. Just as if it never had existed.

Q. And the same procedure was gone through in case of the suspension or abandonment of a local, was it?

A. I think there is a little difference.

Q. How would the suspension or abandonment of a local union be brought about?

A. The International president has authority under our law to revoke the charter of a local union.

Q. How would he do that?

A. Notify the local union that the charter of the local was revoked.

Q. And then its funds would revert to the International Union and not to the district?

A. The funds of the local union would revert to the International Union, and they would not exist as a local union any longer.

Q. In order for them to exist they would have to be rechartered and the charter signed by the President?

A. A new charter issued, and the local union rechartered.

Q. I understand that where the district branch was abandoned, that would be by a resolution of the International Executive Board of the same general nature as suspen-
588 sion except that it would go further in its action and in its effect?

A. Yes, the International Executive Board would take that action and the district would be abandoned.

Q. And the funds would come back, if they had any, to the main union?

A. Yes, sir, the property and funds belonging to a district reverts to the International.

Q. Then the president has not any authority to suspend or revoke the charter of a district branch?

A. The International Executive Board has that authority.

These copies (producing) are all the constitutions I seem to have on file.

Mr. Drinker: Mr. Green presents copies of constitutions dated 1890, 1895, 1904, 1905, 1906, 1908, 1912—that is bound in with the Illinois constitution—1914 and 1916. 1914 is set out in your answer and you need not bother with that.

The Witness: These are all the copies I seem to have on file in my office. For some time we held our conventions every year and then we changed to biennial conventions. I can not recall what year we changed.

Q. It is correct, is it not, that the Union had annual conventions until 1912 and thereafter biennial conventions?

A. That is my recollecion of when the change was made from annual conventions to biennial conventions.

Q. So that there might have been a change in the constitution annually until 1912 and biennially thereafter?

A. Yes, sir.

Q. Now the constitutions that you have produced here are all the ones that you have in your office?

A. They are all I have on file.

589 Q. Has anybody else got any more in the office here?

A. I think not.

Q. Has Mr. White got any in his files that you know of?

A. Not that I know of.

Q. And you do not know of any other copies of constitutions in the office of the United Mine Workers other than these? A. No, sir, I do not.

Q. These constitutions that you have produced are the constitutions of the United Mine Workers of America adopted on the respective dates that you have named, are they?

A. Yes, sir.

Q. And you identify them as such? A. Yes, sir."

Mr. Drinker: Now, the next colloquy, if you want me to read it, I will, if not I will not, because I dont think it is material. Your Honor will pardon me for addressing counsel in this way.

The Court: Go right along, and they can keep track of it, and unless they call your attention to something, read it in your own way. Anyone presenting a deposition can present such part as he desires, anyway, and he don't have to ask permission of any one. The other side can put it in on cross-examination, and you dont have to present the whole of the deposition simply because it is taken.

"Q. Mr. Green, I have asked you to produce certain expense accounts of certain International organizers and Board members for certain districts during certain specified

periods. Mr. Adams has brought in these general files. Will you kindly pick out for me the accounts for the periods and officers indicated.

A. It is going to be rather difficult to do that.

Q. I asked Mr. Adams to do it and he preferred that
590 you should do it. Now Districts 2 and 5 for 1910 and 1911.

A. I will see what I can do about it.

Q. Mr. Green, do you keep the files with relation to the expense accounts of district organizers separate with reference to the districts to which those organizers have been assigned and the years in which they made their reports?

A. No, we do not do that.

Q. Are all the reports, that is the expense accounts, for the districts about which inquiry has been made, contained generally and not by assortment in the files that you have produced?

A. The expense accounts are filed generally. They are as a rule filed alphabetically.

Q. Are they in the files that have been produced before the Notary here?

A. I am of the opinion that they are not here.

Q. What are these files?

A. These are the files containing the general expense accounts of the officers and organizers of the organization employed in the different places and different parts of the country. They are not—these expense accounts are not filed by districts, or there is nothing in them that would indictate the [distct] in which the particular employee is working. May I explain—?

Q. Certainly.

A. —that every six months the bills of all employees of the organization are turned over to the auditor who audits my accounts, and the total amounts of money paid them for salary and expenses are taken from these bills and included and compared by the auditors and included in their report sent out to the membership showing the amount of money that they were paid for salary and expenses.

Q. Let me ask you this question. In the files that
591 you have produced I notice that the expense accounts are filed with reference to the names of the parties. Are those the names of organizers, among others?

A. Some of them are organizers, and some of them are employees in our national office.

Q. Now if you were asked to produce the expense account of an organizer and the name given and the period, could you refer to these files and get it? A. Yes, with the name.

Mr. Warrum: Then we will ask that it be done.

Q. Now who was the organizer attached to Districts 2 and 5 during the years 1910 and 1911?

A. I am unable to say because I was not Secretary-treasurer at that time.

Q. How far back [to] these reports go?

A. My judgment is that they do not go back over five years because the instructions of our International Executive Board are to carry our records for five years and then destroy them. They are transferred from our active files to these dead files and they [they] accumulate so much that within five years they are destroyed.

Q. Now let us take Mr. White's expense account and see how far back that goes.

A. That goes back about five years. I do not think there is any beyond that. Here is mine—we will see how far that goes back. There (indicating) is 1915 and there is 1912—see?

Q. You go back to 1912. Here is Mr. Adams's it goes back to 1914? A. Yes.

Q. I will ask you how long Mr. Adams has been publicity agent for the United Mine Workers?

A. Well, my best recollection is that Mr. Adams has been employed as publicity agent for three years.

592 Q. Was he publicity agent in 1914?

A. I can not tell. I could not tell now without examining the files.

Q. Could you tell by looking at any of these reports here for 1914?

A. I do not think that Mr. Adams at that time was employed as publicity agent. He was employed in an investigating capacity at that time, in my judgment.

Q. He was employed in 1914?

A. Yes, sir; he was employed because the files show that he was employed on October 31, 1914.

Q. Well, the earliest bill in this file under Mr. Adams' name is July 1, 1914; is it? A. Yes.

Q. For the second half of the month of June?

A. Yes, [sor], for the second half of the month of June. That is my opinion but I can not give you anything further back than 1913.

Q. Who was the International organizer and Executive Board member of District 15 in 1912—Colorado?

A. Mr. John Lawson was International Board member.

Q. Who was the International organizer for that district?

A. There was no International organizer for that district.

Q. Are the International organizers employed particularly to work in specific districts or anywhere?

A. They are employed to work in special, specific districts. They are assigned by the International President to work where he feels their services are needed.

Q. The members of the Executive Board work particularly in their own districts, do they?

A. Wherever the International President assigns them to work.

Q. Do they work more particularly in the districts to
593 which they are attributed?

A. Yes. Well, as a general rule they work in their own districts but they are subject to the direction—they are under the direction of the International President and he has authority to assign them to work wherever he feels that their services are needed.

Q. Who was the Executive Board member for District 21 in 1914—Thomas M. King?

A. I am not sure whether he was or whether it was James Mullen.

Q. No, it was Moran; King was previously. Have you got any reports of James Mullen?

A. I do not see Mullen's name here.

Q. Well, he is dead, is he not? A. Yes.

Q. You have no reports at all of Mr. Mullen's?

A. I do not see any in these files.

Q. Well, if they are not in those files does that mean you have not got them? A. I judge that is the case.

Q. You have not seen any?

A. I have not examined to find out whether or not they are in any other files.

Q. What I want to do is to have a specific statement from you as to whether you have or have not got them in your files?

A. If you will give me time I will examine. Do you want me to go right now?

Q. All right, if you will—James Mullen for 1914 and 1915.

A. (After making examination) I have Mr. Mullen's bills. They had been in our active files and had not been transferred to the dead files.

Q. Now who was the Eexecutive Board Member in Districts 17 and 29 for 1912 and 1913?"

Mr. Drinker: Omit that last question: I wish to stop reading after the question and answer No. 90, on page
594 29, and will skip to question 98 on page 30.

"Q. Did you get Mr. Adams"?

A. No, sir; you did not ask for his.
Q. Give me all you have of his please. You can leave them right in there if you want to and I will look at them in there or you can take them out.
A. Here they are (producing).
Q. Now Mr. Green, how long did you say Mr. Adams had been connected with the International organization?
A. Really I could not tell the date."

Mr. Drinker: Omit that last question, No. 100. I want to omit from there to question 107 on page 32.

"Q. Now have you any records of the President or Secretary-treasurer or any other officer of District 21?
A. No.
108Q. Or of District No. 20?
A. What do you mean? What kind of reports do you mean?
109Q. The annual reports of the President or Secretary-treasurer of District 20 to his district for the years 1908 and 1909—have you those?
A. Oh, I do not think we have them on file. My judgment is we do not.'

Mr. Drinker: I want to withdraw question and answer 108 and 109, beginning with District No. 20, I had not intended to read that. I want to omit to question 113."

"Q. Do the district officers make any reports to the International Union? A. No, sir.
Q. I want also the expense accounts of Mr. John P. White for 1914 and 1915 from this file, if you will get that out.
A. That is not in this file I do not think. That is up to 1912. As I say these are dead files. Now 1915—I
595 beg your pardon, they may be in here.
Q. I think 1914 and 1915 are in there. Just get out the bunch. Just put them down there.

The witness did as requested.

The Witness. You asked me for some agreements. Here are the general agreements and constitutions of District 21 in the Southwest and also the Southwest agreements. Here they are, all that I have on hand (producing).

Q. I asked you for all the agreements there were?
A. They are looking up the others, and here are the Southwest agreements. You asked for them. I regret that I am unable to supply you with the reports of the presidents and district secretaries from the district organization, name-

ly Districts 20, 26, 17, 28, 15 and 21 as you requested. We do not have them on file in our office.

Q. You have not any of the reports of the district officers that I have mentioned for any of the periods I have mentioned? A. None whatever in our office.

Whereupon, the hour of twelve 'clock and thirty minutes having arrived the further taking of these depositions was adjourned until one o'clock and thirty minutes p. m.

Tuesday, August 21, 1917. 1:30 o'clock p. m.

The parties met pursuant to adjournment.

Present: The same as before recess. The taking of the deposition of William Green was resumed by Mr. Drinker as follows:

118Q. Mr. Green, among the expense accounts you handed me were those of John R. Lawson, who I understand
596 was Executive Board member during the year 1914 for District No. 15 comprising Colorado?

A. Yes, sir, at that time.

119Q. Now Mr. Mullen's report dated Trinidad, Colorado, May 2, 1914—Mr. Lawson's report dated Trinidad, Colorado, May 2, 1914, being the account with the United Mine Workers of the United States for the last half of the month of April, 1914, shows an item under date of April 18th, railroad fare from Trinidad to Ludlow, $1.30, does it?

A. That bill shows that figure, yes, sir.'

Mr. Drinker: I want to strike out question No. 119, and also strike out question 118, and will start reading again at question 127.

"Q. Now during 1914 and 1915 James Mullen was International Board member for District 21, was he?

A. That is my recollection.

Q. Is not that the fact?

A. I can not recall when Jimmie died.

Q. He was alive here his expense account shows.

A. Well, he was Board Member then at that time from District 21.

597 "Q. Now among the expense accounts which you have handed me there is one from James Mullen, Midland, Arkansas, dated April 15, 1914 for the first of April, 1914, showing under date of April 13, 1914, railroad fare from Fort Smith to Midland, $.75; livery 25¢ under date of April 4th, Midland to Kansas City, railroad fare $11.05; under date of

April 8th, railroad fare Kansas City to Fort Smith, $10.15—is that correct.

A. Yes, those are the items on his expense account of that date.

Q. Among those papers there is also an account of James Mullen dated April 30, 1914, for the last half of April, 1914, showing under date of April 21st, railroad fare, Clarksville to Fort Smith, $1.85 livery $2.00; April 21st railroad fare, Fort Smith to Midland, 75¢, livery 25¢; April 24th, railroad fare Fort Smith to Russellville, $2.40; April 25th Russellville to Midland, railroad fare $3.15, livery $1.50; April 26th railroad fare, Midland to Fort Smith, 75¢ and livery 25¢; April 28th, railroad fare, Fort Smith to Jennie Lind and return, $1.50; April 30th railroad fare, Fort Smith to Hartford, $2.20, livery, $2.00—is that correct?

A. That is correct.

Q. In Mr. Mullen's expense account dated May 15, 1914, for the first half of May, 1914, there appears the following items: May 2nd, railroad fare, Fort Smith to Indianapolis, $20.00. It further appears that there is an item for hotel at Indianapolis on May 2nd to May 10th inclusive, $3.50 per day; May 11th, railroad fare, Indianapolis to Fort Smith, $20.00; May 12th, railroad fare, Midland to McAlester, Oklahoma, $3.10; May 14th, railroad fare, McAlester to Fort Smith, $2.65; May 15th railroad fare Fort Smith to Midland, 75¢, livery $1.50—is that correct?

A. Correct.

Q. In the expense account of Mr. Mullen dated 31, 1914, for the last half of May, 1914, the following May items
598 appear: May 16th, livery, Midland to Prairie Creek, $2.50; May 17th, railroad fare, Midland to Fort Smith, 75¢ May 18th, livery at Fort Smith, $1.00; May 19th and May 20th, hotel bill at Fort Smith, $3.00 per day; May 23rd, railroad fare, Fort Smith to Midland, 75¢; May 24th, railroad fare Midland to Fort Smith, 75¢, livery, 25 cents. Are those items correct?

A. Yes, sir, that is correct.

Q. In Mr. Mullen's account dated June 15th, 1914, for the first half of June, 1914, the following items appear; June 3rd, railroad fare Fort Smith to Midland, 75 cents, livery, 25 cents; June 9th, railroad fare Fort Smith to Midland, and return, $1.50; June 10th, railroad fare Fort Smith

to Excelsior, 55 cents; rig to Midland $2.00 Are those items correct?

A. Yes, sir.

Q. In Mr. Mullen's account dated June 30, 1914, for the last half of June 1914, the following items appear: June 25th, railroad fare Fort Smith to Sutter and return, $1.75; June 26th, railroad fare Fort Smith to Midland, 75 cents, livery 25 cents; June 30th, railroad fare, McAlester to Fort Smith, $2.95. Are those items correct?

A. Yes, sir.

Q. Now in Mr. Mullen's account dated July 15, 1914, for the first half of July, 1914, the following items appear: July 5th, livery Midland to Prairie Creek and return $1.00; July 6th, railroad fare Midland to Spadra, $2.55; July 7th, railroad fare Spadra to Midland, $2.55. Are those correct.

A. Yes, sir.

Q. In Mr. Mullen's account for the last half of July, 1914, dated July 31, 1914, the following items appear: July 21st, railroad fare Kansas City to Fort Smith, $10.30; July
599 22nd railroad fare Fort Smith to Midland 75 cents, livery 25 cents; is that correct?

A. Yes, sir.

Q. In Mr. Mullen's account dated October 31, 1914, for the last half of October, 1914, the following items appear: October 28th, railroad fare, McAlester to Midland, $3.70, livery 25 cents—is that correct?

A. That is correct.

Q. Now I understand that all the items that I have read in the connection with Mr. Mullen's expense accounts are correct, or they appear in these statements as I have read them?

A. They appear in the statements as you have read them.

Q. Among the expense which you have produced there is an expense account of Mr. K. C. Adams dated June 15, 1914, for the first half of June 1914, showing item under May 30th, McAlester, Oklahoma, to Trinidad, railroad fare, $23.50; and thereafter from June 1st to June 15th inclusive, hotel, $2.50 per day. Would that indicate to you that Mr. Adams was at Trinidad at a hotel after June 1st to June 15th?

Mr. Warrum: We object to that; the document speaks for itself.

Q. Well, what is your impression of what that indicates according to the practice of your office in connection with those accounts?

A. Well, that speaks for itself, I think, Mr. Adams was—it indicates Mr. Adams was stopping at the hotel in Trinidad at that time.

Q. The account of K. C. Adams dated Trinidad, Colorado, July 15, 1914, for the first half of July, 1914, shows
600 on July 1st, railroad fare Trinidad to Ludlow and return, $1.20; and on each date from July 1st to 15th inclusive hotel, $2.50, does it?

A. Yes, sir.

Q. The account of K. C. Adams dated July 31, 1914, for the last half of July, 1914, shows under date of July 21st, railroad fare and sleeper, Trinidad to Fort Smith, $26.60; on July 22nd, 23rd, 24th, 25 and 26th, hotel bills $3.50 per day; July 24th, phone, Labor Commissioner, Little Rock and Hartford, $1.25; July 25th, phone, McAlester Oklahoma, 55 cents; July 26th, phone, President Motley, Farmer's Union, 25 cents; July 27th, railroad fare Fort Smith to Greenwood and return, Fort Smith and Little Rock, $7.43— is that correct?

A. Yes, sir, that is correct.

Q. Mr. Adams' account dated November 30, 1914, for the last half of November, 1914, shows the following items: November 16th railroad fare, Trinidad to Fort Smith, Arkansas, $25.35; November 18th, railroad Fort Smith to Hartford and return, $1.96; November 19th, railroad Fort Smith to Midland and return, $1.48; November 23rd, Little Rock to Fort Smith, $5.33; November 25th, Bonanza, Arkansas and return, 76 cents; November 28th, Huntington and return, $1.40— is that correct.

A. That is correct.

Q. The account dated December 15, 1914, for the first half of December, 1914, shows the following items: Phone, Hartford, 26 cents; December 2nd, railroad, Fort Smith to Hartford, 94 cents; December 3rd, railroad, Hartford to Fort Smith 94 cents; December 6th, phone to Clarksville Arkansas, 46 cents— is that correct?

A. Yes, sir.

Q. In the report dated, in the account dated Jaunary 1st, 1915, for the last half of December, 1914, there appear
601 the following items; railroad, Fort Smith to Kansas City, December, 16th, $8.53; December 17th, railroad, Kansas City to Fort Smith, $8.53; December 22nd, railroad, Little Rock to Fort Smith, $5.33; December 31st, Kansas City to Fort Smith, $8.53— is that correct?

A. That is correct.

Q. The account dated January 15, 1915, for the first half of January, 1915, shows the following items: January 3rd,

telephone to Hartford, 25 cents; January 4th, telephone to Little Rock from Fort Smith, 70 cents—is that correct?

A. That is correct.

Q. The account dated March 15, 1915, for the last half of February, 1915, shows the following items; February 24th, telephone, Covington to Fort Smith, 70 cents; February 22nd, railroad Little Rock to Fort Smith, $5.43; February 28th, railroad fare Hartford and return, $1.75; printing bills for two meetings, Paragould (Protest), $3.50—is that correct?

A. That is correct.

Q. In the account dated March 15, 1915, for the first half of March, 1915, are shown the following items: March 8th, railroad, Fort Smith to Little Rock, $5.33; March 15th, railroad, Fort Smith to Indianapolis, $19.67; is that correct?

A. Yes, sir.

Q. The account for the last half of March, 1915, shows the following items: March 17th, excess baggage, publicity records, Fort Smith, Wheeling, $3.65; March 20th, hauling records and trunks publicity books etc., 50 cents; is that correct?

A. That is correct.

Q. The account dated Scranton, Pennsylvania, July 15, 1915, shows the following items: July 5th, New York and return for Free Press, Trinidad, $6.75; are those items correct?

602 A. Yes, sir.

Q. The account dated November 1, 1915, for the last half of October, 1915, shows the item, October 29th, railroad fare and berth Kansas City to Fort Smith, $10.30; does it? Is that correct?

A. I do not know whether that is the railroad fare or not.

Q. The account dated November 1, 1915, for the last half of October, 1915, shows an item, October 29th, K. C. to Fort Smith, berth $10.30, does it? A. That item is there.

Q. The account dated November 15, 1915, for the first half of November, 1915, shows an item, November 3rd, News letter S. W. A. Fort Smith and Pittsburg Headlight, $1.62; November 4th, telegram, White 31 cents. Mr. Green do you know what S. W. A. means? A. No, sir."

Mr. Covington: I want to object to statements in the deposition about any matter that transpired subsequent to the alleged injury. If the conspiracy existed, resulting in injury to them on a specific date, then a subsequent matter is inadmissable.

The Court: The court cannot well pass on general questions of that character.

Mr. Covington: I move to exclude all reference to matter subsequent to the date alleged in the complaint, the 17th, 18th, 19th, 20th and 21st of July, 1914.

The Court: That is not necessarily a question of law, because the admissions, there is nothing before the Court now and I cannot rule upon a question of that character. If you have some specific question or fact, that they are attempting to present, state what it is.

603 Mr. Covington: They are attempting in this way to present an expense account which is not material at any time, and in this record it is certainly not relevant or material or permissible.

The Court: Upon what theory?

Mr. Drinker: The purpose of this proof is to show that K. C. Adams, was publicity agent of the United Mine Workers, was here around Fort Smith at the time when the contempt proceedings came up in which a number of the participants in this matter were sentenced for contempt, and later, at a time when the criminal proceedings were instituted against officers and members of the union, for their participation in this matter.

The Court: The objection is overruled.

Mr. Covington: We except.

The Court: The exception is allowed.

"Q. You do not know whether it means southwest America? A. No, sir.

Q. You do not know? A. No, sir, I do not know.

Q. Do those items that I have read appear in this account?

A. Yes, sir. I never heard tell of any S. W. A. down there. I can not tell you what it is.

Q. Mr. Green, who was Mr. James F. Moran? What position if any did he occupy in connection with the United Mine Workers during the years 1913, 1914 and 1915?

A. Mr. Moran was International Executive Board member from District 13, Iowa, during that time?

Q. In Mr. Moran's account dated May 31, 1914, for the second half of May, 1914, there is shown under date of

604 May 31st, railroad fare, Des Moines, Iowa, Fort Smith, Arkansas, $15.65, with a notation, have the check returned to hotel Maine, Fort Smith, Arkansas—is that correct? A. That is there.

Q. When I ask, "is that correct," I mean only that the items appear correctly on the bill? A. Yes, sir.

Q. And in Mr. Moran's account dated July 15, 1914, for the second half of June, 1914, under date of June 4th there appears the items, railroad fare, Fort Smith, Arkansas to Clarksville, Arkansas, $1.90 June fifth and sixth no railroad fare; hotel bill of $3.50 per day; June 7th, Clarksville to Montana, Arkansas, and return, livery, $3.00; June 8th, railroad, Clarksville to Fort Smith, $1.90, livery 50 cents—is that correct? A. That is correct.

Q. Although that account appears to be for the last half of June it is evidently for the first half of June, is it not, having been marked as including June 16th and covering the first fifteen days of that month?

A. Yes, sir, it is for the first half of June.

Q. Mr. Moran's account dated October 1, 1914, for the second half of September, 1914, shows items, September 23rd, railroad, Colgate, to Fort Smith, $4.10, livery, 50 cents; September 27th, railroad, McAlester to Fort Smith, $2.95, livery fifty cents; does it? A. Yes, sir.

Q. And Mr. Moran's account dated October 16, 1914, for the first half of October, 1914, shows, October 3rd, railroad, Henriette to Fort Smith, $4.25; is that correct?

A. Yes, sir.

605 Q. Mr. Moran's account for the first half of November dated November 17, 1914, shows items under date of November 3rd, railroad, Des Moines to Fort Smith, $17.10; under date November 6th, livery, Forth Smith to Bonanza and return, $2.00; November 7th, Railroad, Fort Smith to Hartford, $1.05; November 9th, railroad, Fort Smith to McCurtain, Oklahoma, and return, $1.90; is that correct? A. Yes, sir.

Q. In Mr. Moran's account dated Fort Smith, Arkansas, February 15, 1915, for the first half of February, there is shown under date of February 16th, railroad, Henriette to Fort Smith, $4.25; is that correct? A. Yes, sir.

Q. Mr. Moran's account dated February 28th, 1915, for the second half of February, 1915, shows items February 16th, railroad, Fort Smith to Hartford and return, $2.45; February 20th, railroad, Fort Smith to Henriette, $4.25; February 26th, railroad Henriette to Fort Smith, $4.25, livery 50 cents; February 27th, railroad, Fort Smith to McCurtain, Oklahoma and return, $1.85, is that correct?

A. Yes, sir.

Q. Mr. Moran's account for the first half of March, 1915, shows item under date, March 2nd, railroad, Russellville to Fort Smith, $4.45; March 9th, railroad, Colgate to Fort Smith, $4.60; March 11th, railroad, Fort Smith to Hartford and return, $2.45; March 12th, railroad Fort Smith to Dem-

ing, Arkansas, to Clarksville $1.80, livery 50 cents; March 13th, railroad, Russellville to Fort Smith, $1.80, livery, 25 cents—is that correct? A. Yes, sir.

Q. Mr. Moren's account dated April 2, 1915, for the
606 second half of March, 1915, shows under date of March 16, an item, Railroad, Fort Smith to McAlester, Oklahoma, $2.95, livery 50 cents; return railroad, 2.95, livery 25 cents; return on the 17th; March 18th, railroad Fort Smith to Tulsa, $4.35; March 19th, return $4.35, livery 50 cents; March 22nd, telephone Fort Smith to Polk Co., jail, 60 cents; March 24th, telephone from Des Moines to Polk, $1.00—is that correct? A. Yes, sir.

Q. The account dated November 1, 1915, for the second half of October, 1915, shows item under date of October 21st railroad, Pittsburg, Kansas, to Fort Smith, $7.35; 22nd railroad, Fort Smith to Clarksville, Ark., $1.90; 23rd, railroad, Clarksville to Jimtown and return to Forth Smith, $1.90, and livery $2.00; October 27th, railroad from McAlester to Fort Smith, $3.80, livery, 25 cents; is that correct?

A. Yes, sir.

Q. Now Mr. Green, have you been able to get those other papers out yet, the correspondence I asked you for, the letters between the different officers?

A. I said Mr. White has those if anybody. You mean the reports from organizers?

Q. No, sir, I mean the correspondence between any of the International officers here and those different district officers. Have you any correspondence between, or copies of corespondence between the officers of the International Union or anyone in this office and the officers and organizers or other employees of the International Union or of District 21 for the years 1914 and 1915?

A. No, I have not in my possession.

Q. But you yourself did not write any such letters?

A. No, sir.

607 Q. You have not any letters from any people in that district during that period? A. No, sir.

Q. In your files? A. No, sir.

Q. Other, of course, than these reports?

A. Other than these reports.

Q. Do international organizers file reports with the International officers from time to time? A. Yes.

Q. With whom do they file them?

A. Those reports are filed with the International Vice President.

Q. That is Mr. Hays for 1914 and 1915? A. Yes, sir.

Q. Is he in town today? A. No.

Q. Do you expect him here tomorrow?
A. Well, I have not had any word from him. He left for Colorado about three weeks ago and I have not had any word from him since he left.
Q. He has charge of the organizers, has he?
A. They work under his direction and make reports to him, but they are assigned to the respective territory in which they work by the International President.
Q. Now, who, during 1914 and 1915, was the Executive Board member for District 14?
A. Mr. Fitzgibbon was the Board member in '14 and Mr. Gilmore in 1915.
Q. For District 14? A. Yes, sir.
Q. Will you please state the names of the several Board Members for the respective districts in 1914?
A. All the districts?
Q. If you please.
608 A. I can not do that from memory.
Q. If you could get a list of them we could put that in right here?
A. That would be in the Journal for that period.
Q. If you could get the Journal for 1914, it will give it to us? A. Yes, sir.
Q. Who was the District Board member for District 25 during 1914—the International Executive Board member?
A. Mr. Framton.
Q. Will you please produce here their accounts for 1914 and 1915—for those three gentlemen you named from Districts 14 and 25?
A. Yes, sir (producing)—except Mr. Fitzgibbon's I can not find Mr. Fitzgibbon's.
Q. You have produced certain contracts, copies, between the Union and certain operators. Are those all the ones that you have in your files.
A. No, those are the copies of agreements entered into between the miners and the operators in the Southwestern districts?
Q. You are going to get me all of the contracts?
A. I have had the girls working on them. I think I have them ready now. These (indicating) contain copies of the Interstate agreements made in the four states.
Q. You are referring to volumes of the joint conventions?
A. Of the four states, yes, sir.
Q. Then the other contracts which you have you are having looked up; will you find out if they are ready now?

A. Yes, sir; (producing) here are copies of all the agreements that we are able to find on file in the different districts. Many of these are state agreements. Here they are.

Q. Mr. Green, do you know what districts the United
609 Mine Workers had contracts with union operators during the year 1914, from March 1914?

A. Well, I can not tell you from memory. I do not suppose all of the districts—

Q. Is there any place where that is summarized in your records or reports? A. No, sir.

Q. You would have to dig it out, would you?

A. Yes, sir.

Q. Will that show in these contracts? Do these agreements that you produced cover all the contracts that were in force in 1914? A. I judge they do.

Q. Then an examination of these contracts will show what operators there were contracts with in the spring of 1914, and what were the terms of those contracts, will they?

A. Yes, sir—no.

Q. And that will be complete?

A. In these that I have submitted?

Q. Yes, sir.

A. Oh, I do not think so. You asked me for copies of all agreements that the organization had made, and these are copies of the agreements that we have made that we now have on file. They [cove] different periods and different years. They are not confined exclusively to the year 1914.

Q. I know they are not but they cover all contracts that were force in 1914?

A. I do not think so. It is my judgment they do not.

Q. Then there are contracts that would cover 1914 that you have not got copies of here?

A. It is my opinion that there is.

Q. If we went through the several districts could you tell me whether or not in those districts they had con-
610 tracts which included the check-off? For instance in District 1 in 1914, did you have a contract that included the check-off? A. Yes, sir.

Q. Did you in District 2?

A. What do you mean by the check-off?

Q. Did you have a contract with District 2 in 1914?

A. Yes, sir.

Q. Did that contract contain a provision providing that the operator should check-off any part of the miners' dues from the miners' wages?

A. I do not recall what the provisions of the District No. 2 contract was. They have a contract which provides that the deductions were made.

Q. What part of the country is covered by District No. 2? A. The Central Pennsylvania people.

Q. In these papers is there a copy of the contract in District No. 2 covering the year 1914? A. I do not know.

Q. Let us find out?

A. Better look through that pile there (indicating).

Q. Are these tied up according to districts?

A. I do not think they are. Possibly they were.

Mr. Warrum: Let me ask a preliminary question.

By Mr. Warrum:

Q. You have been asked with reference to the contract for 1914 in District No. 2. That contract was made by the district officers with the operators, or made by the International officers with the operators?

A. The contract in District No. 2 was made between the mine workers' representatives of District No. 2 and their employers, the operators.

611 Q. And not by the officers of the International Union and the operators of that district? A. No, sir.

Q. If you have possession then, or if you have come into possession of the contract made in District No. 2 it has been sent you as a matter of convenience for your files or accommodation by the representatives of District No. 2; is that correct?

A. Yes, sir, that is correct. That is district No. 2, I guess, that you have there.

By Mr. Drinker:

Q. What territory is covered by District No. 5?

A. The bituminous coal field in Western Pennsylvania.

Q. Have you got any contracts from District No. 5?

A. That is the Pittsburgh district. Yes, here they are, (producing).

Q. Among the copies of the contracts between the different operators in the different districts and the United Mine Workers, for the different districts, that you have produced, there is one entitled "Agreement by and between the Pittsburg District Coal Operators and the United Mine Workers of America, District No. 5, for scale term April 1st, 1912 to March 31st, 1914." Containing on page 3 entitled, "Agreement General Contract. Cleveland Ohio, March 30, 1912," signed at the end on behalf of the miners and operators, of Western Pennsylvania, Ohio, Indiana and Illinois, and "On

behalf of the International organization", John P. White, rank J. Hayes, Edwin Perry, United Mine Workers of America. Signed at Claypool Hotel, Indianapolis, Indiana, April 25, 1912—is that correct?

Mr. Warrum: We object to that unless the document from which he is reading has been identified by proper
612 marks by the Notary and its character established by the witness.

Mr. Drinker: I will ask him to identify it now. He has already identified it and has produced it.

Mr. Warrum: We object for the further reason that the paper that is held before the witness or handed to the witness now purports, according to the terms of the identification, to be a contract or scale agreement between the operators of the Pittsburg District, that is to say, Disrict No. 5, and the miners of that district, whereas the quotation read by counsel to the witness shows that he is reading from an entirely different contract and agreement, to-wit: a contract and agreement that was made at Cleveland, Ohio, between the representatives of the International Union and the Scale Committee of the United Mine Workers of America and the operators of the four states of Western Pennsylvania, Ohio, Indiana and Illinois; not making a contract, as first suggested, for Number 5, but a joint wage scale agreement for the Competitive Field for the four states enumerated; and for the further reason that this does not purport to be an original contract and it is not verified by any one as an accurate copy of the original, nor has the absence or loss of the original been established.

Q. Now what I asked Mr. Green was whether among the papers which he produced was one which contained that entitled—these provisions that I have read. Will you answer my question please, subject to Mr. Warrum's objection. The last question is that correct?

A. The quotation you have made is correct, but the agreement quoted as being signed on behalf of the International organization. John P. White, Frank J. Hayes and Edwin Perry, is an agreement for the Central Competi-
613 tive Field and not for the Pittsburgh District.

Q. Is not the Pittsburgh District included in that Competitive Field?

A. It is a part of the Central Competitive Field.

Q. And District No. 5 is part of the Central Competitive Field? A. That is the Pittsburgh District.

Q. So that agreement covers Pittsburgh District No. 5?

A. That is a general contract that applies to that district. The Pittsburgh District scale details—the Pittsburgh District scale proper follows.

Q. But the agreement that I have quoted from which was signed by the International officers applied to District No. 5, did it not?

A. And to Ohio, Indiana and Illinois as well.

Q. Yes. Now in this same pamphlet on page 14 under the heading "Rules" is the following provision cantained: "Check-off. 16. Check-off for the United Mine Workers to remain in force and our agreement on deductions for the organization to read as follows: Operators will make collections for the miners' dues of 50 cents per month with an addition of one-half of one per cent of the gross earnings, which shall be collected when so requested by the United Mine Workers. Special assessments for international organization to [bt] deducted as requested by the officials of said organization. Initiation fees to be taken off not to exceed $1.00 per man in any one pay, the check-off to apply to employees in and around the mine.

Notice of such collections to be given at the mine on the first and sixteenth day of each month for the succeeding pay.

Collection for the union shall follow checkweighman, accident and death benefits, rent and smithing." Is
614 that provision contained in that?

Mr. Warrum: To which the defendants object for the reason that counsel is apparently reading, not from the general agreement signed by the International officers and representatives of the operators of the Central Competitive Field, but is reading and quoting from a contract, or what purports to be a contract, made between the operators of District No. 5 known as the Pittsburgh District and the representatives of the miners' union for that district, to which the representatives of the International Union were not parties; and the same if it be a contract, being one which is not in the official custody of this witness and of which he has not other or further knowledge than the fact that this printed form has been sent to him for the convenience of his files."

Mr. Covington: I understood that the different objections interposed from time to time at the taking of the depositions were to be waived unless they were renewed at this time, and at this time we would like to renew the objection as to the proof of the check-off that was contained in the various joint agreements, either of the districts of the locals for the reason that

the check-off is a neutral agreement entered into between the miners of the particular operation and the mine owners, which has reference only, as is shown by the agreements, to the collection of dues, assessments, pension funds, and such matters for the convenience of the local union. And I make that objection only because there are a great many questions that follow regarding the check-off and attempts to introduce in the deposition quotations containing provisions for the
615 check-off, which we do not believe relate in any manner to the issues involved in this case.

The Court: Your contention being that this is a purely local agreement with which the international organization has nothing to do?

Mr. Covington: Yes, the international organization has something to do with it, as it has a great many other things; but it has nothing to do with this case, the check-off being an agreement in each particular case with the local operating the particular mine to collect certain dues, as for blacksmithing or powder and that is checked off on the wages and for local charges members dues or assessments and instead of collecting dues from the members, they have an arrangement with the company so that the cashier checks off the dues from the wages of the men and turns them over to the local.

The Court: So, as a matter of fact it is an item in the method of the carrying on of their business?

Mr. Covington: Absolutely, yes, sir.

The Court: The objection is overruled.

"Q. Now subject to that objection on behalf of Mr. Warrum will you please answer the question as to whether or not that pamphlet contains that provision; you can qualify it in any way you want to.

A. This printed copy of the Pittsburgh District Mining Scale contains the section that you have just read. That section is a part of the Pittsburgh District Scale, Mining Scale, between the miners and the operators of that district, entered into by them, and is no part of the interstate contract entered into between the operators of the four states and the officers of the international organization.

616 Q. Mr. Green, do you know in whose hand writing the initials "J. P. W." are, in pencil on the outside of that pamphlet from which I have just read?

A. I do not know but I imagine that is John P. White. By way of explanation this was taken—that is to designate that

that belongs to his files; that indicates that this copy belongs to his files and not to my files. We tried to [accomodate] you by going to everybody's files to get you copies of the agreements.

Q. Now District No. 6 covers Ohio, does it not?

A. Yes, sir. But the district of Ohio is divided into [an] number of other Sub-divisions, and contracts are made in those Sub-divisions as is convenient.

Q. Mr. Green, have you got an original copy of the Chicago agreement of January 28, 1898?

A. No, I do not have the original agreement.

Q. Is this, so far as you know, a correct copy contained in this pamphlet, "United Mine Workers of America, District No. 6, Ohio, for Scale Year April 1, 1912, to March 31, 1914," which I hand you?

A. I would not regard myself as competent to testify regarding this because I have never seen the original copy of the Chicago agreement nor was I in attendance at the convention at Chicago when that agreement was negotiated.

Q. Well, these printed copies are used by everyone in your organization as being valid and correct, are they not, for all purposes?

Mr. Grant: Oh, we object to that.

Mr. Drinker: That is objected to, but he can answer the question subject to the objection."

Mr. Warrum: Is it understood that the objections are
617 waived unless we renew them here?

The Court: Yes.

"Q. Are not those copies used by you and the other officers in connection with all your dealings as correct copies of that Chicago agreement?

A. They are printed in these scales as copies of the Chicago agreement.

Q. And used as such by—

A. They are accepted as such.

Q. Is it not customary for all parties, operators and miners, to use these printed copies which you have in your files in connection with all dealings under this agreement?

A. I can only answer that question by repeating what I said, that that is accepted as a copy of the Chicago agreement.

Q. Well, is it not customary and usual and the regular thing practiced in connection with all these agreements that after the original is signed, copies are printed, and they are used by all parties instead of the originals in the same way

that the convention proceedings are used in the printed copies instead of in the typewritten originals.

Mr. Grant: We object to that question for the same reason we stated before and for the further reason that it refers to all these agreements and is not limited to the agreement that is now being inquired about. All the objections that I made to the last question objected to are made to this question, and the additional objections that I have just indicated.

Q. Subject to that objection will you please answer the question. I will explain that when I say, "all these agreements", I refer to the printed copies of agreements be-
618 tween the various districts and operators that you have produced here, aggregating some fifty say in number.

A. It is customary for us to accept these printed copies of agreements made between operators and miners in the various districts which are sent to the international office for the purpose of being placed on file:

Q. Approximately how many pamphlets have you produced here containing printed copies of contracts?

A. In my opinion there are more than fifty copies that we have found on file in our International office.

Q. Different agreements? A. Yes, sir.

Q. And they are all printed copies?

A. The fact that they are printed is self evident.

Q. The Court will not have these before it, you know.

A. Yes, they are printed documents.

Q. Does this pamphlet which you have produced marked, "District No. 6, Ohio, United Mine Workers of America, for scale year April 1, 1912 to March 31, 1914", contain in connection with the provision for mining scale for Sub-district 1 on page 38, item 34 entitled, "Check-off"? Does that contain a provision on page 38 entitled, "Section 34. Check-off."?

A. Yes.

Q. And in connection with Sub-District 2, Detailed Mining Scale, on page 44, Rule 11: "The system of checking off for the United Mine Workers' organization remains in force and must be observed, same to be checked off by per cent of earnings. The above to include all dues and assessments for burial fund and United Mine Workers' Organization." Is that provision contained in this pamphlet?

619 A. Yes, sir.

Q. On page 75, referring to the Mining Scale in District 4, "Section 3, "Check-off" "The system of Check Off for the United Mine Workers' Organization is to remain in force, but it is understood that the Check Off applies only to as-

sessments and dues," is that provision contained in that pamphlet? A. Yes, sir.

Q. On page 85 under the heading "Scale of prices for No. 3 Vein machine mining," Section 3, Check-Off, "The system of Check Off for the United Mine Workers' Organization remains in force and must be observed, same to be checked off by per cent of earnings. The above to include all dues and assessments for burial fund and United Mine Workers' Organization only." Is that provision contained in there? A. Yes, sir.

Q. On page 142 under the heading "Sub-district 6, detailed mining scale for Cambridge District, Section 17, Check-off, The system of checking off for the United Mine Workers' organization remains in force and must be observed. The above to include all dues and assessments for burial fund and United Mine Workers' organization." Is that provision contained in that pamphlet? A. Yes, sir.

On page 38 under heading, "Sub-District 1, District No. 6, Section 34, Check-off, The System of checking off for the United Mine Workers' organization remains in force and must be observed; the same to be checked off by per cent of earnings. The above to include all dues and assessments for burial fund and United Mine Workers' organization." Is that provision contained in that pamphlet? A. Yes, sir.

620 Mr. Drinker: Now Mr. Stenographer, will you mark that pamphlet from which I have just read for identification, "Green, Exhibit No. 1."

The stenographer did as requested, marking the book referred to by Mr. Drinker for Identification, "Green, Exhibit No. 1, Aug. 20, 1917, W. S. G. Notary."

Mr. Drinker: Now Mr. Stenographer, will you please mark this pamphlet for identification, the copy of the so called Chicago Agreement dated January 28, 1898, on pages 3, 4, and 5 of the pamphlet marked Exhibit No. 1 as identified by this witness.

Mr. Grant: We object to it because you are not offering it in evidence. We object to your identifying any of this stuff.

Mr. Drinker: I am going to offer it in evidence as soon as it is identified.

The Notary did as requested and the said Chicago Agreement, dated January 28, 1898, beginning on page 3 of the pamphlet marked Exhibit No. 1, referred to by Mr. Drinker, was marked by the Notary, "Green Dep. Exhibit 2, W. S. G. Notary."

Mr. Drinker: I now offer in evidence the agreement dated Chicago, Illinois, January 28, 1898, identified and marked, "Green Dep. Exhibit No. 2."

The said so called Chicago Agreement marked, "Green Dep. Ex. No. 2, W. S. G. Notary", offered and introduced in evidence by Mr. Drinker, being as follows, to-wit:

"Green Dep. Ex. No. 2.
W. S. G. Notary."

"An Agreement

621 "Chicago, January 28, 1898.

"Contract Between the Operators of the Central Competitive Coal Field and the United Mine Workers of America:

"The following agreement, made and entered into in joint interstate convention in this city (Chicago, Ill.), January 26, 1898, by and between the operators and miners of Illinois, Indiana, Ohio and Western Pennsylvania known as the Pittsburg Thin Vein District, witnesseth:

"1. That an equal price for mining screened lump coal shall hereafter form a base scale in all the districts above named, excepting the State of Illinois, the Block Coal District of Indiana to pay ten cents per ton over that of Hocking Valley, Western Pennsylvania and Indiana Bituminous District, and that the price of pick run of mine coal in Hocking Valley and Western Pennsylvania shall be determined by the actual percentage of screenings passed through such screen as is hereinafter provided, it being understood and agreed that screened or run of mine coal may be mined and paid for on the above basis at the option of the operators, according to market requirements, and the operators of Indiana bituminous shall also have like option of mining and paying for run of mine or screen coal.

"2. That the screen hereby adopted for the State of Ohio, Western Pennsylvania and the Bituminous District of Indiana shall be uniform in size, six feet wide by twelve feet long, built of flat or Akron-shaped bar of not less than five-eights of an inch surface, with one and one-fourth inches be-

tween bars, free from obstructions, and that such screen shall rest upon a sufficient number of bearing to hold the bars in proper position.

"3. That the Block Coal District of Indiana may continue the use of the diamond screen of present size and pat-
622 tern with the privilege of run of mine coal, the mining price of which shall be determined by the actual screenings, and that the State of Illinois shall be absolutely upon a run of mine system, and shall be paid for on that basis.

"4. That an advance of ten cents per ton of 2000 pounds for pick-mined screened coal shall take effect in Western Pennsylvania, Hocking Valley and Indiana Bituminous Districts on April 1, 1898, and that Grape Creek, Ill., and the Bituminous District of Indiana shall pay forty cents per ton run of mine coal from and after same date based upon sixty-six cents per ton screened coal in Ohio, Western Pennsylvania and the Indiana Bituminous District, same to continue in force until the expiration of this contract.

"5. That on and after April 1, 1898, the eight hour work day, with eight hours pay, consisting of six days per week, shall be in effect in all the districts represented, and that uniform wages for day labor shall be paid the different classes of labor in the fields named, and that internal differences in any of the states or districts, both as to price or conditions, shall be referred to the states or districts affected for adjustment.

"6. That the same relative prices and conditions between machine and pick-mining that have existed in the different states shall be continued during the life of this contract.

"7. That present prices for pick and machine mining and all classes of day labor shall be maintained in the competitive states and districts until April 1, 1898.

"8. That the United Mine Workers' organization, a party to this contract, do hereby further agree to afford all possible protection to the trade and to other parties hereto against any unfair competition resulting from a failure to maintain
623 scale rates.

"9. That this contract shall remain in full force and effect from April 1, 1898, to April 1, 1899, and that our next

annual interstate convention shall convene in the City of Pittsburg on the 3rd Tuesday in January 1899. Adopted."

Committee on behalf of Operators:

Illinois—
J. H. GARATHY,
E. T. BENT.
Indiana Bituminous—
W. S. BOGLE,
Indiana Block—
C. B. NIBLOCK.
Pennsylvania—
J. C. DYSART,
F. M. OSBORNE.

Committee on behalf of Miners:

Illinois—
J. M. HUNTER.
W. D. RYAN.
Indiana Bituminous—
W. G. KNIGHT,
J. H. KENNEDY.
Indiana Block—
J. E. EVANS.
Ohio—
W. E. FARMS.
T. L. LEWIS.
Pennsylvania—
PATRICK DOLAN.
EDWARD M'KAY.
West Virginia—
H. STEPHENSON,
FRED DILCHER,
JOHN FAHY,
HY. STEPHENSON,
EDWARD M'KAY.
J. H. KENNEDY,
W. D. EYAN.

Members National Executive Board U. M. W. of A.
W. C. PEARCE,
Secretary-Treasurer.
M. D. RATCHFORD,
President.
JOHN MITCHELL,
Vice President.

Mr. Drinker: Now I ask the stenographer to identify this pamphlet identified by the witness, on which appears the initials, J. P. W., "Agreement between Pittsburgh District Coal Operators and the United Mine Workers of America, District No. 5, for the scale term April 1, 1912, to
624 March 31, 1914," and mark it Exhibit No. 3 for identification.

The stenographer did as requested, marking the pamphlet referred to by Mr. Drinker as Exhibit No. 3 for identification.

Q. Without going in detail through all these printed pamphlets in each district could you tell me in how many districts in the year 1914 the check-off system prevailed? You understand I am not asking you to testify in reference to the contents of these contracts, I am asking you if you know in how many districts and in what districts the check-off system prevailed between the operators and the United Mine Workers.

A. I am unable to say the number of districts in which there was a clause in the district agreements providing for the check-off.

Q. Can you say whether the check-off prevailed—whether operators did in fact check-off the United Mine Workers in District No. 8? Do you know that as to District No. 8?

A. No, I do not know that they do in District No. 8.

Q. Do you know that they do not or that they do?

A. I am not certain.

Q. You do not know whether they do or do not?

A. I am not certain whether they do or do not.

Q. Do you know about District No. 9?

A. I do not know in District No. 9.

Q. Do you know in District No. 10?

A. Well, I beg your pardon. Now District No. 9, that is the Anthracite District. I can express an opinon that there is no provision—

Q. Do you know in District No. 10?

625 A. No, sir, I can not speak for District No. 10.

Q. Do you know in District No. 11?

A. No, I do not know that it does, but it is my impression that there is a clause in the District No. 11 agreement similar to that which is in Ohio.

Q. What territory is covered by District No. 11?

A. The bituminous coal section of Indiana.

Q. Do you know as to District No. 12, whether the practice of check-off prevails in that district?

A. It is my understanding that the check off, the so called check off, prevails in Illinois.

Q. Illinois being District No. 12?

A. Yes, sir, Illinois being District No. 12.

Q. As to District No. 13, does the check off prevail?

A. I am not certain about District No. 13.

Q. District No. 14?

A. District No. 13—wait a minute—while I do not know for a certainty, my understanding is that the check-off prevails in Iowa, District No. 13, and in Kansas, District No. 14.

Q. And District No. 15, or District No. 16? There is no District No. 16. District No. 17. There is no district there? A. Yes.

Q. Is there a contract in District No. 17? A. Yes, sir.

Q. Is there check-off in District No. 17? Does the check off prevail in District No. 17?

A. My understanding is that there was no check off in District No. 17 during the year 1914.

Q. In District No. 18?

A. Well—I am not certain about Dstrict 18.

626 Q. District No. 17 is West Virginia, is it not?

A. The Kanawha District, West Virginia.

Q. Where is District 18? A. That is British Columbia.

Q. District No 19—that is Tennessee? A. Yes, sir.

Q. Is there any check off in Tennessee?

A. In 1914 you are asking about?

Q. Yes, sir.

A. My understanding is there was no check off in Tennesse in 1914.

Q. In District No. 20, Alabama?

A. The same answer there.

Q. District No. 21?

A. I can not speak from knowledge, but it is my understanding that the practice prevailed in District No. 21.

Q. District No. 22? A. Same answer.

Q. District No. 23?

A. I am unable to answer as to what was done in District No. 23.

Q. Where is that? A. Western Kentucky.

Q. District No. 24?

A. My understanding is the check off prevails there.

Q. District No. 25?

A. My understanding is the same there as in 25.

Q. Your understanding is that in Districts 24 and 25 the check off prevailed in 1914. A. Yes, sir.

Q. District No. 26? A. There was no District No. 26.

Q. District No. 27?
A. My understanding is the same there as in 25.
Q. There are no more districts after that, are there?
A. Well, I think District No. 28 was in existence in 1914.

627 Q. Did they have the check off prevailing there at that time? A. No, not to my knowledge.

628 "Mr. Drinker: I ask the stenographer to mark as Exhibit 4 for Identification the pamphlet produced by the witness in response to the requests for contracts between the union and the operators, the contract purporting to be the "Joint Interstate Agreement for Districts 14, 21 and 25 of operators and miners adopted at Kansas City, Missouri, May 29, 1912, for period ending July 31, 1914"; and I offer in evidence the provisions on page 11 and 12, being Section 8 entitled Check-Off.

The stenographer did as requested marking the pamphlet referred to by Mr. Drinker Exhibit No. 4 for identification; the provision on pages 1 1and 12 being Section 8 entitled Check-Off, offered and introduced in evidence being as follows, to-wit:

"Green, Exhibit No. 4

W. S. G. Notary.

"Check-Off

"Section 8.

"1. The operator will recognize the pit committee in the discharge of their duties, as provided for in this agreement, and agree to check off all dues, assessments, fines and initiations from all miners and mine laborers when desired. In order to protect the companies, the U. M. W. of A. agrees, when the companies so demand, to furnish a collective and continuous order authorizing the company to make such deductions. The companies agree to furnish the miners' local representatives a monthly statement showing separately the amount of dues, assessments, fines and iniation collected. In case any fine is imposed, the property of
629 which is questioned, the amount of such fine shall be held by the operator until the case is taken up and a decision reached.

2. All deductions for dues, assessments, initiations and fines shall be made through the company office upon statement made by the check-weighman, or a duly authorized representative of the local union. It is understood that

powder, oil and smithing shall have prior claim, and not to exceed one-half of the regular iniation fee shall be collected in any one pay.

3. It is agreed that the miners may employ a check-weighman to see that coal is properly weighed and a correct record made thereof, and when such check-weighman is employed, the companies shall furnish him a check number, and he shall credit to his number such portion of each miner's coal as he may be authorized to do by the local union."

Mr. Drinker: It is agreed by counsel for the plaintiffs that the same objection which has been made to the offer just made shall apply to each of the succeeding offers for identification and the offer of the several pamphlets which are to follow immediately.

Now I ask that the stenographer identify, mark for identification as "Green Exhibit No. 5" the pamphlet, produced by the witness in answer to the call for contracts, entitled, "Illinois State Agreement expiring March 31, 1914, District No. 12"; and I offer in evidence the provision on pages 28 and 29 entitled, "Check-off".

The witness Green was asked by the plaintiffs' counsel to produce various papers and among them certain
630 agreements, as shown by the previous questions in the record; and these particular pamphlets purporting to be agreements are among those which were produced in response to the request of plaintiffs' counsel relative to agreements, and laid upon the table.

The offers now to be made are from these pamphlets so produced and laid upon the table by the witness Green."

Mr. Warrum: We wish to renew our objection to the introduction. These are quotations from the contract, and the other was an oral explanation, and we wish to make the same objection to this.

The Court: Objection overruled.

Mr. Warrum: Exception.

The Court: Exception allowed.

"The stenographer marked the pamphlet referred to by Mr. Drinker Exhibit No. 5, as requested; the provisions on pages 28 and 29 offered and introduced in evidence being as follows, to-wit:

Check-Off.

Seventeenth; The operators will recognize the pit committee in the discharge of its duties as herein specified, but not otherwise, and agree to check off union dues, assessments, and fines from the miners and mine laborers, when desired, on proper individual or collective continuous order. It is understood that after the pit expenses for powder, smithing and a proper porportion of mine tools, the operator will give preference to the ordinary dues and assessments; and also not to exceed $5 in any one pay for fines and initiation fee, unless by special agreement with the operator concerned. The operator will furnish to
631 the miners' local representative a statement showing separately the total amount of dues, assessments and fines collected, and furnished to the miners' local representative a statement showing in detail those whose dues and assessments have not been collected, and the means of ascertaining that the total amount collected is correct. When such collections are made, card day shall be abolished. In case any fine is imposed, the propriety of which is questioned, the amount of such fine shall be withheld by the operator until the question has been taken up for adjustment and a decision has been reached."

I ask that the stenographer mark for identification from such pamphlet, that entitled "Agreement by and between the Illinois Coal Operators Association, the Coal Operators Association of the Fifth and Ninth Districts of Illinois, and the United Mine Workers of America, District No. 12, expiring March 31st, 1914," as Exhibit No. 6 to the deposition of William Green; and I offer in evidence the provisions on pages 28 and 29 entitled, "Check-Off".

The stenographer marked the pamphlet referred to "Exhibit No. 6" as requested; the provisions on pages 28 and 29 offered in evidence being as follows, to-wit:

"Check-Off.

"Seventeenth. The operators will recognize the pit committee in the discharge of its duties as herein specified, but not otherwise, and agree to check off union dues, assessments, and fines from the miners and mine laborers, when desired, on proper individual or collective continuous order. It is understood that after the pit expenses for powder, smithing and a proper proportion of mine tools,
632 the operator will give preference to the ordinary dues and assessments; and also not to exceed $5 in any one

pay for fines and initiation fee, unless by special agreement with the operator concerned. The operator will furnish to the miners' local representative a statement showing separately the total amount of dues, assessments and fines collected, and furnish to the miners' local representative a statement showing in detail those whose dues and assessments have not been collected, and the means of ascertaining that the total amount collected is correct. [Wen] such collections are made, card day shall be abolished. In case any fine is imposed, the propriety of which is questioned, the amount of such fine shall be withheld by the operator until the question has been taken up for adjustment and a decision has been reached.'

Mr. Drinker: I ask that the stenographer mark as Exhibit No. 7 from among such pamphlets that entitled, "Agreement between the United Mine Workers of America and the Northern Wyoming Coal Operators' Association for Mines in Wyoming expiring September 1, 1914; and I offer in evidence the provision on pages 7 and 8 entitled, "Check-Off".

The stenographer marked the pamphlet referred to "Exhibit No. 7", as requested; the provisions on pages 7 and 8 offered in evidence being as follows, to-wit:

"Check-Off

"The Operators will recognize the Pit Committee in the discharge of its duties as herein specified, and not otherwise, and agree to Check off Union dues, assessments, fines and initiations from the miner and mine laborers when
633 desired, on prepared individual or collective continuous orders and furnish to the miners' local representative a statement showing separately the total amount of dues, assessments, fines and initiations collected. Union charges not to exceed five dollars per month shall have priority over all other charges except hospital fees, rent, light, water and mining expenses. In case any fine is imposed the propriety of which is questioned, the amount of such fine shall be withheld by the operator until the question has been taken up for adjustment and a decision has been reached. When such collections are made, card day shall be abolished."

Mr. Drinker: The stenographer will mark from among such pamphlets as Exhibit No. 8, to the deposition of William Green, that entitled, "Agreement, United Mine Workers of America with Washington Coal Operators Association, Two years commencing September 1st, 1912; and I of-

fer in evidence the provisions on pages 8 and 9 entitled, "Collection of Union Dues and Assessments, Section 9, subdivisions a, b, c, d and 2."

The stenographer marked the pamphlet referred to "Exhibit No. 8," as requested; the provisions on pages 8 and 9 offered in evidence being as follows, to-wit:

"Collection of Union Dues and Assessments.

Section 9. (a) The operators agree to check-off all dues, assessments and fines from all members of the United Mine Workers of America when desired on proper individual order which shall continue during the life of this agreement. It is understood that after the pit expenses for powder, caps and fuse, rent and doctor the operator will give preference to the ordinary dues, assessments and
634 also not to exceed $5.00 in any one pay for fines and initiation fees unless by special agreement with the operator concerned.

(b) The operator will furnish to the miners local representative a statement showing separately the total amount of dues, assessments and fines collected.

(c) In case any fine is imposed the propriety of which is questioned the amount of such fine shall be withheld by the operator until the question has been taken up for adjustment and a decision is reached.

(d) The operators agree that the members of the U. M. W. of A. may solicit membership in any peaceful manner but in no way shall such solicitation impede the operation of the mines and if any member or members of the U. M. W. of A. is found guilty of so doing he or they shall be suspended for one week.

(e) In case anyone be allowed to go from one place to another in or around the mines soliciting membership during working hours, however, the above does not prohibit the pit committee from going around the mines once each quarter for the purpose of checking up their membership."

Mr. Drinker: The stenographer will mark as "Exhibit No. 9 to the deposition of William Green", from among such pamphlets, that entitled, "Agreement between Montana Coal Operators' Association and United Mine Workers of America, District No. 27, Montana; Year Commencing October 1, 1912, Ending September 30, 1914, for Mines in Montana";

and I will offer in evidence the provisions on pages 5 and 6, Section 5 and entitled "Check-Off".

635 The stenographer marked the pamphlet referred to "Exhibit No. 9" as requested; the provisions on pages 5 and 6 offered in evidence being as follows, to-wit:

"Check-Off".

Section 5. The operators to check off all Union dues, assessments, initation fees and such fines as are provided for in this agreement or any may be agreed upon by the District President and the Coal Operators' Commissioner or their authorized representatives from all miners and mine laborers in and around the mine when requested by the Local of the U. M. W. of A.

In order to protect the operators the U. M. W. of A. agrees to furnish individual orders authorizing the company to make such deductions.

It is understood that after fuel charges and the pit expenses for powder, smithing and a proper proportion of mine tools deducted, the operator will give preferents to the regular dues and also not to exceed $5.00 in any one pay for assessment, fines and initiations.

The operator will furnish to the miners' local representative a monthly statement showing separately the amount of dues, assessments, fines and imitiation fees collected and also showing from whom dues and assessments have not been collected.

In case any fine is imposed, the propriety of which is question, the amount of such fine shall be held by the operators until the case has been taken up for adjustment and a decision reached."

Mr. Drinker: The stenographer will mark as "Ex-
636 hibit No. 10 to the deposition of William Green" from among such pamphlets, that entitled, "Joint Interstate Agreement and Contract for District No. 14 of Operators and Miners, adopted at Kansas City, Mo., May 29, 1912, for Period ending July 31, 1914; and I offer in evidence the provisions on page 13, Section 8, sub-divisions 1 and 2 entitled Check-Off".

The stenographer marked the pamphlet referred to "Exhibit No. 10 to the deposition of William Green" as requsted;

the provisions on page 13, Section 8, offered in evidence, being as follows, to-wit:

"Check-Off".

Section 8.

"1. The operator will recognize the pit committee in the discharge of their duties, as provided for in this agreement, and agree to check off all dues, assessments, fines and initiations from all miners and mine laborers when desired. In order to, protect the companies, the U. M. W. of A. agrees, when the companies so demand, to furnish a collective and continuous order authorizing the company to make such deductions. The companies agree to furnish the miners, local representatives a monthly statement showing separately the amount of dues, assessments, fines and initiations collected. In case any fine is imposed, the propriety of which is questioned, the amount of such fine shall be held by the operator until the case is taken up and a decision reached.

2. All deductions for dues, assessments, initiations and fines shall be made through the company office upon statement made by the check-weighman, or a duly author-
637 ized representatives of the local union. It is understood that powder, oil and smithing shall have prior claim, and not to exceed one-half of the regular initiation fee shall be collected in any one pay."

Mr. Drinker: The stenographer will mark from among such pamphlets as Exhibit No. 11 to the deposition of William Green, that entitled, "Agreement between the Kanawha Coal Operators and the United Mine Workers of America, entered into July 11, 1914, for the period ending April 30, 1917 and offered in evidence, the provisions on page 3 entitled, "Check-Off".

The stenographer marked the pamphlet referred to Exhibit No. 11, as requested; the provisions on page 3 offered in evidence being as follows:

"Check-Off".

1. There shall be a check-off for dues and assessments only, not exceeding one dollar and ten cents per month or fifty-five cents per day, collected by the coal companies parties hereto, on the voluntary individual order, subject to revocation, of those wishing to pay same, and for whom the scale is made; such order or orders with list of same to be in the company's hands at least twenty-four hours prior to the expiration of each half.

(A) All assessments must be levied by the National or District Organization of the the United Mine Workers of America.

(b) The check-off herein provided for shall be collected after store, house rent and smithing charges have been paid.

(c) Only moral suasion shall be permitted in influenc-
638 ing a man to pay dues or to join the union.

(d) Orders for the check-off shall be individual and must read as follows:

To .....

Please pay to the authorized agent of Local Union No. ..... of the United Mine Workers of America, the sum of $1.10, or 55 cents each two weeks out of my earnings for each month while in your employ, unless revoked, to be used as dues and assessments to the United Mine Workers of America.

.....

Dated .....

Witness .....

Mr. Drinker: The stenographer will mark as Exhibit No. 12 to the deposition of William Green the pamphlet entitled, "United Mine Workers of America, District No. 6, Ohio, for scale year April 1, 1914, to March 31, 1916; and I offer in evidence the provisions on page 38, Section 32, relating to Sub-District No. 1 entitled "Check-Off"; the provisions on page 50 relating to Sub-Division No. 2, Rule 5, entitled "Check-Off"; the provisions on page 93 relating to Sub-District No. 4, Section 3, entitled "Check-Off"; the provisions on page 118 relating to Sub-District No. 4, Section 3 entitled "Check-Off"; the provisions on page 161 relating to Sub-District No. 6, Section 17, entitled "Check-Off"; the provision applicable to Sub-District No. 5 being Rule 30 on page 147 entitled "Check-Off".

The stenographer marked the pamphlet referred to Exhibit No. 12 as requested; the provisions on pages 38, 50, 93,
118, 161 and 147 offered in evidence being as follows,
639 to-wit:

(Exhibit 12; page 38).

"Sec. 32. Check-Off.

"The system of checking off for the United Mine Workers' organization remains in force and must be observed;

the same to be checked off by per cent of earnings. The above to include all dues and assessments for burial fund the United Mine Workers' organization.

"No fine shall be collected except it is ordered by a majority vote of the members present at a regularly called local meeting.

"However, should either the operator, the local union or the party upon whom the fine is imposed, object to such fine, each of them shall have the right to appeal to the Sub-District Officers and the operator or the operator's Commissioner for final ruling.

"In order to be ordered, check-off figures must be furnished to the company by noon of the first and by noon of the sixteenth of each month."

(Exhibit 12; page 50)

"Rule 5. The system of checking off for United Mine Workers' organization remains in force and must be observed; the same to be checked off by per cent of earnings. The above to include all dues and assessments for burial fund and United Mine Workers' organization."

(Exhibit 12; page 93).

"Section III.

"Check-Off.

"The system of Check Off for the United Mine Workers' Organization is to remain in force, but it is understood that Check Off applies only to assessments and dues. In
640 order to be honored, the Check Off must be furnished to the Company not later than 5:00 P. M., on the second and seventeenth day of each month."

(Exhibit 12; page 118).

"Section 3. Check-Off.

"The system of check-off for the United Mine Workers' organization remains in force and must be observed, same to be checked off by per cent of earnings. The above to include all dues and assessments for burial fund and United Mine Workers' organization only."

(Exhibit 12; page 161).

"Section 17. Check Off.

"The system of checking off for the United Mine Workers' organization remains in force and must be observed. The

above to include all dues and assessments for burial fund and United Mine Workers' Organization.

"No fine shall be collected except it be ordered by a majority vote of the members present at a regularly called local meeting.

"However, should either the operator, the local union or the party upon whom the fine is imposed, object to such fine, each of them shall have the right of appeal to the Sub-District President and the operator or the operator's committee for final ruling."

(Exhibit 12; page 147.)

"Rule 30. We adopt the check-off system as a part of the agreement of this district. This pertains to regular dues and assessments of the U. M. W. of A. In order to be honored the check-off must be furnished to the company not later than 5 p. m. on the second and seventeenth day
641 of each month."

Mr. Drinker: Now I ask that the stenographer mark for identification as No. 3, Deposition of William Green, among the pamphlets produced by the witness in response to my request, that entitled "Agreement Between The Vancouver-Nanaimo Coal Mining Co. and The United Mine Workers of America," agreement dated "At Nanaimo, B. C., on August 21st, 1913," for the period up to and including August 31st, 1915; and I offer in evidence the provision entitled "Section 10. Collection of Dues and Assessments."

The stenographer did as requested, marking the pamphlet referred as Exhibit No. 13, the provision offered in evidence (pamphlet not paged) being as follows, towit:

"Section 10.

Collection of Dues and Assessments.

"The operators agree to check off all union dues and assessments and fines from all members of the U. M. W. of A. when desired on proper individual order which shall continue during the life of this agreement. It is understood that after the Pit expenses for Powder, Caps and Fuse Rent and Doctor, the Operator will give preference to the ordinary dues, assessments, and also not to exceed five dollars in any one pay for fines, or initiation fees, unless by special agreement with the operator concerned.

"(B) The operator will furnish to the miners local representative a statement showing separately the total amount of dues, assessments, fines and initiation fees collected.

"(C) In case and fine is imposed the propriety of which is questioned, the amount of such fine shall be withheld by the operator until the question has been taken up for adjustment and a decision has been reached."

642

Mr. Drinker: I will ask the stenographer to mark for identification as Exhibit No. 14 from among the pamphlets produced by the witness the pamphlet entitled "Agreement by and between the Pittsburgh District Coal Operators and the United Mine Workers of America District No. 5. For Scale Term April 1, 1914, to March 31, 1916"; and I offer in evidence the provision at the top of page 14, entitled "Check-Off".

The stenographer marked the pamphlet referred to Exhibit No. 14, as requested; the provision on page 14 offered and introduced in evidence by Mr. Drinker being as follows, towit:

"Check-Off."

"16. Check-off for the United Mine Workers to remain in force and our agreement on deductions for the organization to read as follows: Operators will make collections for the miners' dues of 50 cents per month with an addition of one-half of per cent of the gross earnings, which shall be collected when so requested by the United Mine Workers. Special assessments for international organization to be deducted as requested by the officials of said organization. Initiation fees to be taken off not to exceed $1.00 per man in any one pay, the check-off to apply to employes in and around the mine.

"Notice of such collections to be given at the mine on the 1st and 16th of each month for the succeeding pay.

"Collection for the union shall follow check-weighman, accident and death benefits, rent and smithing."

643

Mr. Drinker: Now I will ask the stenographer to mark for identification as Exhibit No. 15, from among such pamphlets produced by the witness, the pamphlet entitled, "Joint Inter-State Agreement Contract For District No. 21 of Operators and Miners, Adopted at Kansas City, Mo., May 29th, 1912, for Period ending July 31, 1914"; and I offer in evidence the provisions on page 12 and 13, Section 8, paragraphs one, two and three, entitled "Check-Off."

The stenographer marked the pamphlet referred to by Mr. Drinker Exhibit No. 15, as requested; the provisions on pages 12 and 13 offered and introduced in evidence being as follows, towit:

"Check-Off.

"Section 8.

"The operator will recognize the pit committee in the discharge of their duties, as provided for in this agreement, and agree to check off all dues, assessments, fines and initiations from all miners and mine laborers when desired. In order to protect the companies, the U. M. W. of A. agrees, when the companies so demand, to furnish a collective and continuous order authorizing the company to make such deductions. The companies agree to furnish the miners' local representatives a monthly statement showing separately the amount of dues, assessments, fines and initiations collected. In case any fine is imposed, the propriety of which si questioned, the amount of such fine shall be held by the operator until the case is taken up and a decision reached.

"2. All deductions for dues, assessments, initiations and fines shall be made through the company office upon
644 statement made by the check-weighman, or a duly authorized representative of the local union. It is understood that powed, oil and smithing shall have prior claim, and not to exceed one-half of the regular initiation fee shall be collected in any one pay.

"3. It is agreed that the miners may employ a check-weighman to see that coal is properly weighed and a correct record made thereof, and when such check-weighman is employed, the companies shall furnish him a check number, and he shall credit to his number such portion of each miners' coal as he may be authorized to do by the local union."

Mr. Drinker: The stenographer will mark for identification as Exhibit No. 16, from among such pamphlets produced by the witness, the pamphlet entitled "Joint Interstate Agreement and Contract for District No. 25, of Operators and Miners, Adopted at Kansas City, Mo., May 29, 1912, for the Period Closing July 31, 1914"; and I offer in evidence the provisions on pages 13 and 14, being Section 8, sections one, two and three, entitled "Check-Off."

The stenographer marked the pamphlet referred to by Mr. Drinker Exhibit No. 16, as requested; the provisions on pages 13 and 14 offered and introduced in evidence being as follows, towit:

"Check-Off.

"Section 8.

"1. The operator will recognize the pit committee in the discharge of their duties, as provided for in this agreement, and agree to check off all dues, assessments, fines and
645 initiations from all miners and mine laborers when desired. In order to protect the companies, the U. M. W. of A. agrees, when the companies so demand, to furnish a collective and continuous order authorizing the company to make such deductions. The companies agree to furnish the miners' local representatives a monthly statement showing separately the amount of dues, assessments, fines and initiations collected. In case any fine is imposed, the propriety of which is questioned, the amount of such fine shall be held by the operator until the case is taken up and a decision reached.

"2. All deductions for dues, assessments, initiations and fines shall be made through the company office upon the statement made by the check-weighman, or a duly authorized representative of the local union. It is understood that powder, oil and smithing shall have prior claim, and not to exceed one-half of the regular initiation fee shall be collected in any one pay.

"3. It is agreed that the minors may employ a check-weighman to see that coal is properly weighed and a correct record made thereof, and when such check-weighman is employed, the companies shall furnish him a check number, and he shall credit to his number such portion of each miners' coal as he may be authorized to do by the local union."

Mr. Drinker: I will now ask the stenographer to mark for identification from such pamphlet by the witness, as Exhibit No. 17, the pamphlet entitled "Agreement and Scale of Wages between The Texas & Pacific Coal Company, Strawn Coal Company, Belknap Coal Company, Bridgeport Coal Company, Sally Alice Coal Company and The United
646 Mine Workers of America, District No. 21, Aug. 1, 1914, to September 1, 1916;" and I offer in evidence the provision on page 11, being Section 6, entitled "Check-Off."

The stenographer marked the pamphlet referred to by Mr. Drinker Exhibit No. 17, as requested; the provision on page 11 offered and introduced in evidence being as follows, to-wit:

"Check-offs.

"Section VI.

"The Operators will recognize the pit committee in the discharge of their duties, as provided in this agreement, and agree to check off dues, assessments, fines and initiations from all mines and mine laborers when desired. In order to protect the companies the United Mine Workers of America agree, when the companies so demand, to furnish a collective and continuous order authorizing the companies to make such deductions. The companies agree to furnish the miners' local representatives a monthly statement showing separately the amount of dues, assessments, fines and initiations collected. In case any fine is imposed the propriety of which is questioned, the amount of such fine shall be withheld by the operator until the case has been taken up for adjustment and a decision reached.

"It is agreed that the miners may employ a check-weighman to see that coal is properly weighed and a correct record made thereof; and when such check weighman is employed the companies shall furnish him a check number and he shall credit to his number such portion of each miner's coal as may be authorized by the local union. It is also understood that the local union may have a number
647 in order to collect dues, assessments, fines and initiations from the miners and mine laborers, and the local union shall notify the company by giving the names in writing of the person or persons authorized to collect such union money from the company office.

"The dues and assessments to be deducted on the first working day of each month or on the first day the employes commenced work.

Mr. Drinker: The stenographer will mark from among such pamphlets produced by the witness, as Exhibit No. 18, the pamphlet entitled "Northern Agreement and Constitution, District Twenty-two, U. M. W. of A., Adopted in Convention, Nineteen-Fourteen;" and I offer in evidence the provision on pages 6 and 7 entitled "Check-Off."

The stenographer marked the pamphlet referred to by Mr. Drinker Exhibit No. 18, as requested; the provision on pages 6 and 7 offered and introduced in evidence being as follows, to-wit:

"Check-Off.

"The Operators will recognize the pit committte in the discharge of its duties as herein specified, and not otherwise, and agree to check off Union dues, assessments, fines and initiations from the miner and mine laborers when desired on prepared individual or collective continuous orders and furnish to the miners' local representative a statement showing separately the total amount of dues, assessments, fines and initiations collected. Union charges not to exceed five dollars per month shall have priority over all other charges except hospital fees, rent, light, water and mining expenses. In case any fine is imposed, the
648 propriety of which is questioned, the amount of such fine shall be withheld by the operator until the question has been taken up for adjustment and a decision has been reached. When such collections are made, card day shall be abolished.

"Check-weighman.

"It is agreed that the miners may employ a check-weighman who must be an employe of the company at the time of and for at least three months previous to his election, to see that the coal is properly weighed and a correct record made thereof, and when such check-weighman is employed the company shall furnish him a check number and he shall credit to his number such portion of each miner's and loader's coal as he may be authorized by the Local Union. Where this system is impracticable, the Companies agree to check off a specified amount per day or month; there shall be no discrimination against any check-weighman at the end of his official term on account of proper activity in the performance of his duties as check-weighman. Complaints made by check-weighman shall be taken up the same as other grievances. At each dump there shall be 400 pounds of 50-pound test weights."

Mr. Drinker: The stenographer will mark as Exhibit No. 19, from these Agreements and pamphlets produced by the witness, for identification, the pamphlet entitled "Joint Interstate Agreement and Contracts for District 14, 21 and 25 of Operators and Miners, Adopted at Kansas City, Mo., May 29, 1912, For Period Ending July 31, 1914. For Missouri, Kansas, Arkansas and Oklahoma"; and I offer in evidence from this Exhibit that part which comes under the heading "Check-Off," being Section 8, on pages 11 and 12.

649 The stenographer marked the pamphlet referred to by Mr. Drinker Exhibit No. 19, as requested; the

provision on pages 11 and 12 offered and introduced in evidence being as follows, to-wit:

"Check-Off."

"Section 8.

"1. The operator will recognize the pit committee in the discharge of their duties, as provided for in this agreement, and agree to check off all dues, assessments, fines and initiations from all miners and mine laborers when desired. In order to protect the companies, the U. M. W. of A. agrees, when the companies so demand, to furnish a collective and continuous order authorizing the company to make such deductions. The companies agree to furnish the miners' local representatives a monthly statement showing separately the amount of dues, assessments, fines and initiations collecterd. In case any fine is imposed, the propriety of which is questioned, the amount of such fine shall be held by the operator until the case is taken up and a decision reached.

"2. All deductions for dues, assessments, initiations and fines shall be made through the company office upon statement made by the check-weighman, or a duly authorized representative of the local union. It is understood that powder, oil, and smithing shall have prior claim, and not to exceed one-half of the regular initiation fee shall be collected in any one pay.

"3. It is agreed that the miners may employ a check-weighman to see that the coal is properly weighed and a correct record made thereof, and when such check-
650 weighman is employed, the companies shall furnish him a check number, and he shall credit to his number such portion of each miner's coal as he may be authorized to do by the local union."

Mr. Drinker: I ask the stenographer to mark for identification as Green No. 20 the pamphlet, from such pamphlets produced by the witness, entitled, "Agreements Between the Block Coal Operators and the United Mine Workers of America, District No. 8. From April 1, 1912, to April 1, 1914:

The stenographer marked the pamphlet referred to by Mr. Drinker Exhibit No. 20, as requested.

Mr. Drinker: I ask the stenographer to mark for identification as Exhibit No. 21 the pamphlet from among the pamphlets produced by the witness entitled, Michigan Mining Scale, 1912-1914," signed by the "Michigan Coal Oper-

ators'' and the United Mine Workers of America, District No. 24.

The stenographer marked the pamphlet referred to by Mr. Drinker Exhibit No. 21, as requested.

Mr. Drinker: I will ask the stenographer to mark for identification as Exhibit No. 22 the pamphlet from among the pamphlets produced by the witness entitled, ''Agreement Between the Members of the Western Kentucky Coal Operators' Association and Their Employes, Members of District No. 23, of the U. M. W. of A. April 1, 1912 to March 31, 1914.''

The stenographer marked the pamphlet referred to by Mr. Drinker Exhibit No. 22, as requested.

Mr. Drinker: I will ask the stenographer to mark for identification as Exhibit No. 23, from among the
651 pamphlets produced by the witness, the pamphlet entitled ''Michigan Mining Scale. 1914-1916'', Agreement Between Michigan Coal Operators and District No. 24 United Mine Workers of America, dated May 29th, 1914.

The stenographer marked the pamphlet referred to by Mr. Drinker Exhibit No. 23, as requested.

Mr. Drinker: I will ask the stenographer to mark for identification as Exhibit No. 24, from among the agreements and pamphlets produced by the witness Green, the pamphlet entitled ''Agreement Between the Members of the Western Kentucky Coal Operators Association and Their Employes, Members of District No. 23, U. M. W. of A. April 1, 1914, to March 31, 1916.''

The stenographer marked the pamphlet referred to by Mr. Drinker Exhibit No. 24, as requested.

Mr. Drinker: I will ask the stenographer to mark for identification as Exhibit No. 25, from among the agreements and pamphlets produced by the witness, the pamphlet entitled ''Book of Scale Agreements Between the U. M. W. of A. Dist. No. 2, And the Bituminous Operators of Central Pennsylvania, From 1899 to 1914, Inclusive.''

The stenographer did as requested, marking the pamphlet referred to by Mr. Drinker as Exhibit No. 25.

Mr. Drinker: I will ask the stenographer to mark for identification as Exhibit No. 26, from among the agreements and pamphlets produced by the witness, the pamphlet entitled ''Agreement between Kanawha Coal Operators of

the Kanawha District and the United Mine Workers of America. April 1st, 1910, to March 31st, 1912." That is the printed title page, and then over the "April 1st,
652 1910 to March 31st, 1912" is written in pen and ink, "May 1 - 1910 to March 31 - 1914."

The stenographer did as requested, marking the pamphlet referred to by Mr. Drinker Exhibit No. 26.

Mr. Drinker: I will ask the stenographer to mark for identification as Exhibit No. 27, from among the agreements and pamphlets produced by the witness, the pamphlet entitled "Agreements Between the Block Coal Operators and the United Mine Workers of America, District No. 8. From April 1, 1914, to April 1, 1916."

The stenographer did as requested, marking the pamphlet referred to by Mr. Drinker Exhibit No. 27.

Mr. Drinker: I will ask the stenographer to mark for identification as Exhibit No. 28, from among the agreements and pamphlets produced by the witness, the pamphlet entitled, "Contract. International and District Constitutions. District No. 11, U. M. W. of A;" inside title page, "1912-1914. Toledo, Cleveland and Terre Haute. Agreements Between Indiana Bituminous Coal Operators Association and United Mine Workers of America, District No. 11. Adopted May 31, 1912"; and I offered in evidence the provision on page 27, being Section 32 of Article VIII.

The stenographer marked the pamphlet referred to by Mr. Drinker Exhibit No. 28, as requested; the provision on page 27, being Section 32 of Article VIII, offered and introduced in evidence, being as follows, to-wit:

"Article VIII.

*****

"Sec. 32. It is further agreed that the operators shall offer no objection to the check-off for the check-
653 weighman, and for dues for the U. M. W. of A., provided that no check-off shall be made against any person until he shall first given his consent in writing to his employer. This applies to all day work as well as miners."

Whereupon, the hour of five o'clock, P. M., having arrived, the further taking of these depositions was continued until tomorrow, Tuesday, August 21st, 1917, at 8:30 o'clock, A. M.

Indianapolis, Indiana, Tuesday August 21, 1917.

Eight-thirty o'clock A. M.

The parties met pursuant to adjournment.

Present: The same as on yesterday.

The taking of the deposition of William Green was resumed by Mr. Drinker as follows:

Q. Mr. Green, you have produced in answer to the call the reports of the officers of the International Union covering 1900 to 1916 inclusive, I understand, such reports being contained in the printed proceedings of the various conventions of the United Mine Workers of America?

A. Those are the reports of the conventions from the year 1900 to 1916, as we have them on file.

Q. Have you any more formal copies of those proceedings than those which you have produced? A. No, sir.

Q. Those are the ones which you have in the office and are for the purpose of reference as authority?

A. Yes, sir. There may be one volume missing there, as you have explained, the one of 1914.

Q. Have you got that?

654 A. No; those are all we have.

Q. Now do those proceedings contain the annual reports or biennial reports of the president and vice-president and secretary-treasurer of the International Union?

A. Yes, sir.

Mr. Drinker: The stenographer will please mark these proceedings for identification Exhibit No. 29 to the deposition of William Green, a, b, c, d, etc., as far as necessary.

The notary and stenographer did as requested, marking the volumes referred to as Exhibits No. 29a, b, c, d, e, f, g, h and Exhibit No. 29h2, Exhibit No. 29i, etc., to 29r, inclusive.

Q. Mr. Green, I hand you the volume, printed, produced by you in answer to the call, which the stenographer has marked "29a" on the title page, and ask you to describe what that book is?

After the inspection of the book by counsel for the defendants.

A. Well, this book is a copy of the proceedings of the 11th annual convention of the United Mine Workers of America, the 12th annual convention of the United Mine Workers of America, the minutes of the 13th annual convention of the United Mine Workers of America, the minutes of the special

convention of the United Mine Workers of America and the minutes of the 14th annual convention of the United Mine Workers of America.

Q. Mr. Green, I hand you the remaining volumes which have been marked by the stenographer as Exhibits 29b to 29r, inclusive, and ask you what they are?"

Mr. Warrum: I believe we object to these documents,
655 because, in connection with the taking of these depositions, neither of these documents now being referred to, or any excerpts from them, were made part of the deposition, and they are not before the court as part of this deposition, as I understand it. Subsequently, they have asked for a rule requiring us to produce.

The Court: The court assumes this is merely a matter of identification.

Mr. Drinker: This is to have the papers identified, and they were identified and marked by the stenographer, and they have since been produced under the order of the court.

The Court: I so understand it.

Mr. Warrum: Exception.

The Court: It is allowed.

"After inspection of the exhibits by counsel for the defendants.

A. These are copies of the proceedings of the conventions of the United Mine Workers of America held between the years 1904 and 1916.

Q. Inclusive? A. Inclusive.

Mr. Drinker: The stenographer will please mark the seven bound printed volumes produced by the witness Green in answer to the call by counsel for the reports of the joint conferences of miners and operators in the four competitive states.

The books referred to, comprising eight volumes instead of seven, as stated by Mr. Drinker, were marked by the reporter for identification as Exhibits 30a to 30h inclusive.

656 Q. Mr. Green, I hand you the bound printed volumes produced by you in response to the call as above stated, these volumes purporting to contain joint conferences of miners and operators, C. O. and C. N. 1901, 1902, 1903, 1904, 1906, 1908, 1910, 1912 and 1914, and 1916, marked Exhibits 30a to 30h, inclusive, and ask you to state what they are?

A. These are copies of the proceedings of joint conferences of miners and operators of the central competitive districts held during the years 1901, 1902, 1903, 1904, 1906, 1908, 1910, 1912, 1914 and 1916.

Q. What districts comprise the competitive field?

A. Western Pennsylvania, Ohio, Indiana and Illinois.

Q. Now will you kindly produce the bound volumes of the United Mine Workers of America Journal, such as you have up to and including the year 1906?"

"Q. Well then, Mr. Green, will you kindly produce the complete files of the Journal from 1890 to date, such as you have in your possession?

The witness produces certain files.

Mr. Drinker: Mr. Stenographer, will you please mark for identification the twenty-four volumes of the Journal, the United Mine Workers Journal just produced by the witness in pursuant to the call, purporting to cover the period from April 14, 1892, through April 26, 1917.

The stenographer did as requested, marking the twenty-four volumes produced Exhibits 31a to 31x inclusive.

Mr. Drinker: That is all we want to ask Mr. Green."

Mr. Hull: Do you gentlemen wish to read the cross-examination, Mr. Warrum?

Mr. Warum: Yes, sir.

657 "Cross-Examination:

(Mr. Warum, reading)

Questions by Mr. Henry Warrum:

Q. I do not believe you have stated your full name? State it to the Notary. A. William Green.

Q. What office do you occupy in the United Mine Workers of America? A. International Secretary-treasurer.

Q. How long have you been Secretary-treasurer?

A. I think since about August, 1913.

Q. Where is your residence? A. Coshocton, Ohio.

Q. How long have you been a member of the United Mine Workers of America?

A. I have been a member of the United Mine Workers of America ever since its formation.

Q. That would be when? A. 1890.

Q. Did you ever occupy any official position in the District of Ohio? A. Yes, sir.

Q. What?

A. I served as president of a Sub-Division and later as President of the Ohio District.

Q. What years were you president of the Ohio District?

A. From 1906 to 1910 inclusive.

Q. What is the United Mine Workers of America? Just state briefly its nature and purpose. It is a labor union, is it not?

A. The United Mine Workers of America is a labor union.

Q. Composed of what class of workmen?

A. Coal men. Men employed in and around coal mines.

Q. Those who labor in coal mines? A. Yes, sir.

Q. It does not include those who are employed as superintendents of coal mines or in clerical capacities by operators, does it? A. No, sir.

Q. Cashiers or officers of mining companies?

658 A. No, sir; those are not eligible to the union.

Q. It is the laboring men? A. The laboring men.

Q. And it is a labor union? A. Yes, sir.

Q. How many members are there in the United Mine Workers of America, approximately?

A. There are approximately 400,000.

Q. How many members were there approximately in 1914—just approximately? A. Oh, 350,000.

Q. And in 1912? A. About the same number.

Q. Is this membership a permanent or shifting membership? A. Well, the membership varies.

Q. There may be a great many members of the union today who were not members last year; is that true?

A. Yes, sir.

Q. And a great many who were members last year who are not members today; Is that true? A. Yes.

Q. Then the membership varies in its personnel by reason of new members joining or old members dying or leaving the work or quitting the union?

A. Going into other lines of industry.

Q. For all those reasons? A. For all those reasons.

Q. Now you say some 400,000 miners constitute the miners union; that is the International Union, is it?

A. The International Union of United Mine Workers of America.

Q. Has it any membership outside of the United States?

A. Yes, sir.

Q. Where about outside of the United States?

A. In the Dominion of Canada.

Q. At what places? A. British Columbia.
659 Q. You have some at Britsh Columbia?
A. Yes, sir; and Vancouver Island.
Q. Have you some in Nova Scotia?
A. We had a small membership there but I am not certain as to whether—
Q. You have had during these years inquired about Locals in Nova Scotia? A. Yes.
Q. Does the United Mine Workers of America embrace the workmen in the anthracite mines in Pennsylvania?
A. Yes, sir.
Q. How many members have you in the anthracite mines?
A. The membership varies there. I think there is—there are approximately one hundred thousand members there.
Q. And they are engaged in the production of anthracite coal? A. Yes, sir.
Q. Taking it out of the ground? A. Yes, sir.
Q. And they are now and have been for years in varying numbers since 1890 members of the union? A. Yes, sir.
Q. On equal terms with other members? A. Yes, sir.
Q. Now how is the union governed—by a constitution?
A. By the constitution.
Q. How is that constitution adopted and changed, if changed from time to time? In annual conventions and biennial conventions? A. In annual and biennial conventions.

Mr. Warrum: I will ask the notary to mark this paper which I hand him as Defendant's Exhibit No. 1, deposition of William Green.

The notary did as requested.

Q. Mr. Green, I will hand you Defendant's Exhibit No. 1, as marked by the Notary, and ask you to state what that is?
A. That is a copy of the Constitution of the Interna-
660 tional Union United Mine Workers of America effective during the year 1914.
Q. Well, adopted and effective until changed; is that right?
A. Yes, sir.

Mr. Warrum: Now we will offer in evidence and introduce in evidence Defendants' Exhibit No. 1, the constitution of the International Union in 1914.

The said copy of the Constitution of the International Union United Mine Workers of America in 1914, marked Defendants' Exhibit No. 1, so offered, being in the words and figures following and is hereto attached.

Constitution of International Union United Mine Workers of America (Union Label) Adopted at Indianapolis, Indiana effective April 1, 1914.

Preamble. There is no truth more obvious than that without coal there could not have been such marvelous social and industrial progress as marks present day civilization.

Believing that those whose lot it is to toil within the earth's recesses, surrounded by peculiar dangers and deprived of sunlight and pure air, producing the commodity which makes possible the world's progress, are entitled to protection and the full social value of their product, we have formed the "United Mine Workers of America" for the purpose of establishing by lawful means, the principles embraced in the body of this constitution."

Mr. Warrum: On the next page is a seal.

"Constitution

Article I.

Name.

This Organization shall be known as The United Mine
661 Workers of America. It shall be International in scope, and as an organization shall not be committed to or favor any particular religious creed; neither shall affiliation herewith interfere with the religious or political freedom of individual members.

Article II.

Objects.

First. To unite in one organization, regardless of creed, color or nationality, all workmen eligible for membership, employed in and around coal mines, coal washers, and coke ovens on the American Continent.

Second. To increase the wages, and improve the conditions of employment of our members by legislation, conciliation, joint agreements or strikes.

Third. To demand, that not more than eight hours from bank to bank in each twenty-four hours shall be worked by members of our organization.

Fourth. To strive for a minimum wage scale for all members of our craft.

Fifth. To provide for the education of our children by lawfully prohibiting their employment until they have at least reached sixteen years of age.

Sixth. To secure equitable statutory old age pension and workmen's compensation laws.

Seventh. To enforce existing just laws and to secure the repeal of those which are unjust.

Eighth. To secure by legislative enactment, laws protecting the limbs, lives and health of our members; establishing our right to organize; prohibiting the use of deception to secure strike breakers; preventing the employment of privately armed guards during labor disputes; and such other
662 legislation as will be beneficial to the members of our craft.

Article III.

Jurisdiction.

Section 1. The International Union shall be composed of workmen eligible for membership in the United Mine Workers of America, and may be divided into Districts, Sub-Districts and Local Unions.

Sec. 2. All Districts, Sub-Districts and Local Unions must be chartered by, and shall be under the jurisdiction of and subject to the laws and rulings of the International Union.

Sec. 3. In all questions of dispute, appeals and grievances affecting our members (unless restricted by joint agreement) the decision of the International Executive Board shall be final and binding until reversed by an International Convention.

Article IV.

Districts.

Section 1. Districts [mey] be formed with such number and territory as may be designated by the International Officers and may adopt such laws for their government as do not conflict with the laws or rulings of the International Union or Joint Agreements.

Sec. 2. Districts may subdivide territory within their own boundaries but the International Executive Board shall have authority to change the boundaries of Districts as conditions may require; but no change of boundaries shall be made until the officers of Districts and Local Unions affected by such change have been consulted, and all local unions must pay all tax and assessments due the District to which they were attached before change of boundary was made.

Article V.

Sub-Districts.

663 Sub-Districts may be formed and assigned such numbers and territory as may be designated by the District of which they are a part, and may adopt such laws for their government as to not conflict with the laws or rulings of the International or District Unions or Joint Agreements.

Article VI.

Local Unions.

Section 1. Local unions may adopt such laws for their government as do not conflict with the laws or rulings of the International, District or Sub-District Unions or Joint Agreements.

Sec. 2. Each local Union shall have the right to penalize its own members, or (except as prohibited by Section 17 or Art. 15) debar from membership any applicant for membership therein, but any member so penalized or any person so debarred shall have the right of appeal in consecutive order to the Sub-District, District and International Unions, any one of which branches shall have authority to reverse the decision of the Local Union; and any Local Union debarring any applicant from membership shall give such applicant written reason for his debarment.

Sec. 3. If in the judgment of the officers of the International, District or Sub-District Unions, any Local Union has taken any action opposed to the interest of the United Mine Workers, the International Union or the District or Sub-District Unions having jurisdiction over the Local Union shall have the right to reverse the action of the Local Union.

Sec. 4. Should any Local Union be dissatisfied with a decision of any of the governing branches (unless prohibited by joint agreement) it shall have the right of appeal
664 to the branch next in authority until a final decision is reached, as provided in Section 3 of Article 3.

Sec. 5. Where it is decided that any branch of the Organization has done an injustice to any member, or applicant for membership, the branch responsible for the injustice must compensate such member or applicant for time lost and expense incurred while defending his rights, and any such defendant shall be restored to all former rights and privileges in the organization.

Article VII.

Officers.

665 The officers of the International union shall be one President, one Vice-President, one Secretary-Treasurer, three Tellers, three Auditors, the Delegates to the American Federation of Labor Convention and one Executive Board Member from each of the Districts over which the United Mine Workers has jurisdiction, the last named of which shall constitute the International Executive Board.

Article VIII.

Qualification for Office.

Section 1. Any member in good standing in the Organization shall be eligible to hold office in the International Union if employed at our trade, or officially connected with the Organization, or engaged as permitted by Section 2 of Article 20 and has never been found guilty of misappropriating any of the Organization's funds, and has had five years experience as a mine worker and has been a member for three consecutive years at the time of his election, and except as may be hereinafter provided.

Sec. 2. No two Auditors shall be elected from the same District. In the event of any two candidates for Auditor from the same district receiving a plurality of votes cast, the one receiving the lesser number shall drop out and the candidate from some other District receiving the next highest number of votes shall be declared elected. This rule shall also apply to the election of Tellers.

Sec. 3. No member shall hold two salaried offices in the International Union at the same time, neither shall any member hold a salaried office in any two branches of the organization at the same time, except delegates to the Ameri-
666 can Federation of Labor Convention.

Sec. 4 Section 1 of this article shall not prohibit newly organized districts from having representation of the International Executive Board.

IX.

Duty of Officers.

Section 1 The President may preside over all International Conventions and meetings of the International Executive Board and sign all bills and official documents when satisfied of their correctness.

Sec. 2. He shall fill by appointment all vacancies occurring in any International Office, except International Board Members, who shall be elected by the District in which the vancancy occurs.

Sec. 3. He may suspend or remove any International Officer or appointed employe for insubordination or just and sufficient cause.

Sec. 4 He may appoint a member whose duty shall be to collect and compile statistics on the production, distribution and consumption of coal and coke, freight rates, market conditions, and any other matter that may be of benefit to the Organization. Said statistician shall make a report to the regular convention.

Sec. 5 He may appoint such organizers, field and office workers as may be necessary to conduct the affairs of the International Union.

Sec. 6. He may visit in person or appoint an International Officer to visit any branch of the U. M. W. of A. or any other place, if in his judgment such writ will be of benefit to the U. M. W. of A.

Sec. 7. He shall interpret the meaning of the International Constitution, but his interpretation shall be subject to
667 repeal by the International Executive Board.

Sec. 8. He shall semi-annually name the pass word, transmit it to the International Secretary-Treasurer, who in turn shall transmit it to the various District Secretary-Treasurers for transmission to the local unions entitled to the same.

Sec. 9. He shall appoint from among properly elected delegates the committees necessary to transact the work of International Conventions, and instruct the Resolutions, Constitution and Grievance Committees to meet at headquarters sufficiently early to enable them to be prepared to render at least a partial report on the first day the Convention convenes, but if a convention is to consider charges, regularly filed, against the President, the Grievance Committee shall be elected by the Convention.

Sec. 10. He shall appoint, subject to the approval of the International Executive Board, one or more competent Traveling Auditors, said appointees to be agreed upon by the Districts and International Union.

The International Organization shall reimburse the different districts for one-half the salary and expense paid the Traveling Auditors for the time actually employed as such. Said Traveling Auditors shall examine the accounts of all Local Unions at least once every year and assist in establishing a uniform system of bookkeeping in the Local Unions. Should such audits develop any irregularities, those responsible for the same shall be penalized as hereinafter provided.

The Traveling Auditors so appointed shall submit a correct report of their findings to the International, District and Sub-District officers and shall also furnish a copy of his report to the Local Unions where the accounts have been audited.

668 This section shall not prevent proper International officers from at any time examining the accounts and records of any Local Union.

Sec. 11. He shall be empowered to grant district or territorial dispensations relating to initiation fees, when in his judgment such dispensations will add to the growth of or conserve the interests of the Organization.

Sec. 12. He shall devote all his time to the affairs of the Organization, executing the instructions of the International Executive Board and exercising general supervision over the field and office work of the International Union, and shall render a report of his stewardship to the regular International Convention.

Sec. 13. All appointments, suspensions and removals from office done by the President, shall be subject to the approval of the International Executive Board.

Sec. 14. The Vice-President shall work under the instructions of the President and the International Executive Board, and in event the presidency is vacated by resignation or removal from office, he shall succeed to that position. He also shall render a report to the regular Convention.

Sec. 15. The Secretary-Treasurer shall have charge of and preserve all books, documents and effects of the International office, except such records as properly belong to the office of the president.

Sec. 16. He shall record or cause to be recorded, the proceedings of all International Conventions and such meetings of the International Executive Board as the Board may desire recorded.

Sec. 17. He shall receive and receipt for all moneys due the International Union, pay all bills and current ex-
669 penses, unless otherwise ordered by the President and shall keep copies of all important correspondence sent out and received by his office.

Sec. 18. He shall submit to the locals semi-annually a statement showing the salary and expenses of each officer and employe and detailing the receipt and disbursement of all money belonging to the International Union. The receipts from each District shall be compiled separately and totaled.

Sec. 19. He shall give a bond of $25,000 (which must be approved by the International Executive Board and deposited with the President) to insure a faithful discharge of his duties, but he shall not have more than $15,000 subject to his order at any time.

Sec. 20. He must deposit all funds in excess of $15,000 in banks giving interest bearing certificates of deposit, subject to the order of the International Executive Board.

Sec. 21. He shall send out to all Local Unions a monthly "delinquent list" showing all local unions in bad standing with the International Union.

Sec. 22. He may, with the consent of the International Executive Board, employ such assistants as may be necessary to conduct the affairs of his office.

Sec. 23. He shall perform such other duties as are elsewhere herein provided and may be assigned him by the President or International Executive Board, and shall submit to the regular International Convention a detailed statement of the International Organization's financial affairs.

Sec. 24. The International Executive Board shall execute the instructions of International Conventions and between Conventions shall have full power to direct the workings of the Organization.

Sec. 25. The Board shall have power to levy and col-
670 lect assessments when necessary but no assessment levied by the International Executive Board shall be collected for more than two months unless authorized by a referendum vote of the members.

Sec. 26. The Board shall hold in trust for the United Mine Workers of America all money deposited by the Secretary-Treasurer in the name of the Executive Board, but under no

circumstances shall said money be drawn upon except upon the written order of two-thirds of the members of the Board.

Sec. 27. The Board shall have power between Conventions, by a two-third vote, to recommend the calling of a general strike, but under no circumstances shall it call such a strike until approved by a referendum vote of the members.

Sec. 28. Questions coming before the Board may be decided by a unit vote of its members, but any member [many] demand a roll call vote on any question, and each member shall have one vote, and one additional vote for each 2,000 members, or majority fraction thereof, in good standing, he represents. Where a unit vote is taken, the three resident officers shall be entitled to vote. Where a roll call vote is taken, they shall not have that right unless a tie vote is cast, then the President shall cast the deciding vote.

Sec. 29. The President, Vice-President and Secretary-Treasurer shall be members of the Board by virtue of their positions.

Sec. 30. The Board shall be convened upon the order of the President, or by the Secretary-Treasurer at the request of a majority of the members thereof.

Sec. 31. When the Board is not in session, the individual members thereof shall be subject to the direction of the President.

671 Sec. 32. The auditors shall audit the books and accounts of the International Secretary-Treasurer semi-annually and make a report of the receipts and disbursements of his office and the Secretary-Treasurer shall have their report printed and a copy sent to each local union.

Sec. 33. The Auditors shall also act as the Credential Committee for International Conventions and shall meet at headquarters in sufficient time to enable them to make complete, printed reports in the morning of the first day's session of the Convention, of their audit and of all delegates entitled to seats in the Convention, said reports being printed in sufficient numbers to furnish each delegate with copies.

Sec. 34. The names of delegates whose seats are in contest shall be withheld from the committee's report until the contest is decided.

Sec. 35. The Tellers shall meet at headquarters and tabulate in accordance with the provisions of this Constitution, the votes cast for International Officers by Local Unions

that have complied with the valid laws of all branches of the Organization.

Sec. 36 The votes of each District shall be tabulated separately and consecutively, and the votes of each Local Union within each District shall be tabulated separately and consecutively, the entire totals given and the complete report printed and sent out to the local unions by the International Tellers not later than January 15th of each election year.

Sec. 37. The Tellers shall decide the legality of the vote of any Local Union and their report submitted to the Local Unions shall be an official announcement of the election [fo] the respective offices of the candidates receiving a plurality of legal votes as shown on the report, but should they
672 for any reason refuse to tabulate the vote of any Local, their reason must in every instance be shown on their report submitted to the Local Unions and all contest growing out of the report shall be filed with the International Executive Board, which body shall have authority to decide the contest.

Sec. 38. Delegates to the A. F. of L. Convention shall represent the United Mine Workers of America in Conventions of the American Federation of Labor and shall render a report to the regular International Convention succeeding the Convention of the A. F. of L. which they last attended.

Sec. 39. The President, Vice-President and Secretary-Treasurer shall have their reports prepared, printed and ready for distribution on the first day the convention convenes.

Article X.

Officers Salaries.

Section 1. The salary of the President shall be $4,000. per annum; Vice-President $3,300 per annum; Secretary-Treasurer, $3,300 per annum, editor of the official Journal, $2,000. per annum International Executive Board Members, $125.00 per month when employed; Tellers, Auditors and delegates to the A. F. of L. Conventions $5.00 per day when employed. Each of the above mentioned officers and Editor shall receive, in addition to their salaries, all legitimate expenses while employed by the Organization away from their places of residence.

Sec. 2. The salaries of other employes shall be fixed by the International Executive Board.

Article XI.

Nomination and Election of Officers.

Section 1. The President, Vice-President, Secretary-Treasurer, Auditors, Tellers and Delegates to the
673 American Federation of Labor Conventions shall be elected by a referendum vote of the members, except as elsewhere herein provided, the candidates for the respective positions receiving a plurality of legal votes cast, shall be declared elected, except as restricted by sections 1 and 2 of Article VIII.

Sec. 2. The next election of International Officers shall be held on the second Tuseday in December 1914, and the officers elected shall assume their duties beginning April 1st following their election and shall serve for a term of two years there after.

Sec. 3. All members in good standing in all branches of the Organization on December 1st of each election year, shall be entitled to vote.

Sec. 4. Each district and Sub-district Secretary-Treasurer must forward by registered mail to the International Tellers care of the International Secretary-Treasurer, not later than December 15th of each election year, a statement giving the numbers of all local Unions in bad standing with their respective branches also giving the reasons for the locals being in such status. In it is claimed a violation of a District or Sub-District Constitution is responsible for the Local's delinquency, the section alleged to have been violated must be quoted in the statement to the Tellers. In the event the Tellers do not receive such a statement, they shall assume the locals are in good standing with their District and Sub-District Organizations.

Sec. 5. The International Secretary-Treasurer shall prepare nomination blanks and send them to the Local Unions not later than twenty weeks before the date of election and the local Recording Secretary shall fill in the names of the members nominated by the Local Union for the various offices and forward the same to reach the International Secre-
674 tary-Treasurer's office not later than fifteen weeks before the date of election.

Sec. 6. The International Secretary-Treasurer shall within ten days thereafter notify all members who have been nominated and ask if they are candidates, but no person shall be notified or be a candidate who has not been nominated by five or more Local Unions.

Sec. 7. Any nominee notified in accordance with Section 6 of this article who desires to become a candidate must have his official notice attested by the officers of his Local Union and return said notice to the International Secretary-Treasurer at once.

Sec. 8. No nominee filing his acceptance with the International Secretary-Treasurer shall be allowed to withdraw his name.

Sec. 9 The International Secretary-Treasurer shall prepare ballots giving the names and place of residence of those accepting nominations, also showing the positions for which the various nominees are candidates and forward them to the Local Unions in sufficient numbers to supply each member not later than four weeks prior to the date of election. Two "Tally Sheets", one "Return Sheet" and one envelope for "Return Sheet" must accompany the ballots sent each local union.

Sec. 10. Local Recording Secretaries must notify their members by posting notices and otherwise, one week prior to the dates set for the nomination and election of International officers.

Sec. 11. Each Local Union shall designate, at a regular meeting of the local, where its election shall be held and the place so designated shall be the official voting place of such Local Union, and under no circumstances shall the
675 votes of any local be tabulated in any place other than the place designated by the Local Union, and no member shall be allowed to interfere with the official Tellers during the tabulation.

Sec. 12. No member shall be allowed more than one vote for any candidate, nor shall the local Tellers record the vote of any member who is not present at the time the election is held, except officers, organizers and workers in the field away from home, whose votes shall be recorded if sent to the Secretaries of their respective Local Unions.

Sec. 13. Each Local Union shall elect from among its own members a committee of not less than three nor more than six, three of whom must be the local President, Financial and Recording Secretaries, to act as local Tellers whose duty shall be to supervise the election, and when requested instruct the members how to vote, and tabulate the votes cast by the members for International offices, and enter on the "Return Sheet" furnished by the International Secretary-Treasurer for that purpose, the total number of

votes cast for each candidate. The correctness of the "Return sheet" must be attested with the Local seal and signatures of the President and Recording Secretary of the Local Union.

Sec. 14. Should it be proved that more votes are recorded on the "Return Sheet" than were actually cast by the members, the entire vote of the Local Union shall be thrown out by the International Tellers, and those responsible for the fraud shall be punished as hereinafter provided.

Sec. 15. After the votes have been tabulated and the "Return Sheet" attested, it shall be turned over to the Recording Secretary, whose duty it shall be to see that the Return Sheet is properly attested, enclosed in a special
676 envelope furnished by the International Secretary-Treasurer for that purpose, and forwarded at once by registered mail to the International Secretary-Treasurer's office. "Return Sheets" reaching International Headquarters after January 1st shall not be tabulated by the International Tellers.

Sec. 16. The envelopes for "Return Sheets" furnished the Local unions must have the name and address of the International Secretary-Treasurer, and the following printed thereon:

Election Returns

From L. U. No. .....

District No. .....

It shall be the duty of the local Recording Secretary to insert the numbers of the local union and district in the blank spaces on the envelope.

Sec. 17. When the Return Sheets reach the International Secretary-Treasurer's office, he shall examine the envelopes to see if they are intact, make a proper record of their receipt and deposit them unopened in a securely locked receptacle provided for that purpose."

The Court: Gentlemen of the jury, I notice that the newspapers are printing articles about this case, about this trial, and you are admonished especially not to read anything in the newspapers concerning this case. The
677 Court has every confidence that you, individually and collectively, recognize and appreciate the importance of the oath you have taken that you will try this case on the evidence introduced before you and the law given to you by

the Court and that you shall not be affected by anything on the outside that others may say or do, or that you may see in the newspapers or otherwise. I therefore urge upon you to obey the oath you have taken, and that you shall refrain from reading in the newspapers any account whatever, even the headlines. I would prefer that you not read the newspapers at all, but especially not read anything in the newspapers with reference to what transpires in the Court room, or any comment with reference to this case.

I am saying this to you because the Court has considered the advisability of having the jury placed in the charge of the United States Marshal and kept, during the trial, apart and separate from others. In that event you will be placed in the charge of the Marshal and will be kept night and day together. I say, I am considering that question. Now, a number of those among you have been accustomed to being out on the farms and in the open, and I do not want to do this, and I do not think it necessary as now advised. In other words, I feel confident that you will take seriously the admonition of the Court in regard to the duty that devolves upon you as jurors and that you will especially adhere strictly to the admonition of the Court not to talk about the case among yourselves and not allow anyone to speak in your hearing or in your presence concerning it, and that you will not read anything in the newspapers and
678 will not be influenced by anything on the outside, but only by what you hear in the court room from the mouths of the witnesses and the law as given to you by the Court.

I shall not repeat this, gentlemen of the jury, I want you to bear in mind that the Court has especially admonished you, and that you will seriously take upon yourselves the burden of strict compliance with your oaths and not violate any admonition of the Court as given to you.

We will now stand adjourned until 2:00 o'clock this afternoon.

679 Wednesday, October 24, 1917. 2:00 o'clock p. m.

Pursuant to adjournment Court reconvened at 2:00 o'clock p. m., and the following proceedings were had.

The Court: Proceed, gentlemen.

Mr. Warrum (reading): "Sec. 18. Before turning the "Return Sheets" over to the International Tellers, the Secretary-Treasurer, with the Tellers, must check them

with the record made upon their receipt, and the Secretary-Treasurer shall take the Tellers' receipt for all "Return Sheets" turned over to them.

Sec. 19. The International Secretary-Treasurer shall be absolute custodian of the "Return Sheets" from the time they reach his office until turned over to the International Tellers and during the interims of tabulation.

Sec. 20. No member who is not a regular attendant of the meetings of his local union shall be allowed to act as a local Teller of International elections.

Note: The term "regular attendant" shall mean a member who attend at least one-half of the meetings of his local union six months just previous to the election.

Sec. 21. The International Tellers shall not count the votes of any local union that has cast more votes than the number of members such local paid per capita tax on the National Union for the month preceding the one in which the election is held, unless a satisfactory explanation for so doing accompanies the "Return Sheet" of the local union so voting. Neither shall they count the votes of any local union that is not in good standing with all branches of the Organization or whose "Return Sheet" is not attested as required by Section 13 of this article.

Sec. 22. All contests in connection with the vote of
680 any local union must be filed with the International Tellers not later than ten days after the date of election, by some responsible and reputable member of the local union whose vote is contested.

Sec. 23. In case no plurality vote is cast for any of the candidates for some office, another election shall be held for that particular office.

Sec. 24. Local officers of all local unions shall be required to carefully preserve all ballots which have been cast for International officers by their respective local unions for a period of six months after the date of election.

Sec. 25. No member other than the local Tellers shall be allowed to loiter around the voting place or to interfere in any way with the election of any local union.

Sec. 26. Local Tellers shall be held personally responsible for any irregularities that may take place in their local unions during the election of International officers.

Sec. 27. That portion of Section 6 which requires candidates to have at least five nominations, shall not apply to International Board Members.

Sec. 28. Any Local officer or Teller failing to obey the laws regulating International elections, or any member or members interfering with local officers or Tellers during the discharge of their duties in connection with International elections, or any member or members resorting to dishonest or questionable practices to secure the election or defeat of any candidate for International office, shall be tried by the International Executive Board and fined, suspended, or expelled, as the magnitude of the transgression may warrant.

Sec. 29. Upon the signed request of 5 per cent of
681 the entire membership, the Secretary-Treasurer shall send out a petition to each local union for the recall of any International officer guilty of malfeasance. Said petition to accompany charges for which a recall is asked and defense of those charged.

If within thirty days after the [peition] is sent out, 30 per cent of the entire membership send a signed request to the Secretary-Treasurer, The International Executive Board shall call an election for the recall of any International officers so charged.

Said election to be held in accordance with the election laws of the International Union.

Article XII.

Conventions.

Section 1. The regular International Convention shall be held biennially on the third Tuesday in January at such place as may be determined by the preceding Convention.

Section 2. Representatives to the International Convention shall be elected directly from local unions they represent, and shall have one vote for one hundred members or less, and one additional vote for each one hundred members or majority fraction thereof, but no delegate shall be allowed more than five votes.

Sec. 3. Representation shall be based upon the average membership of the local for the last three months upon which payment has been made, previous to the month in which the Convention is held.

Sec. 4. Local unions organized one year prior to the date for holding the Convention and having one hundred members or more in good standing, must be represented in the Convention or pay to the International Secretary-Treasurer a fine of $25.00 for each one hundred members in good standing in the local union, unless exonerated by the
682 International Executive Board. This section shall not apply to local unions whose members have been idle for one month or more prior to the Convention on account of strikes suspensions or closing of mines.

Sec. 5. Local unions of less than one hundred members may combine with similar local unions within a reasonable radius of each other in the same District, and elect delegates to repreesnt them, but no delegates so elected shall be entitled to more than five votes in the Convention.

Sec. 6. No local union shall be entitled to representation that is in arrears for per capita tax or assessment for two months preceding the month in which the Convention is held and which has not in every particular complied with the constitutions of the International union and of the District and Sub-District to which it is attached.

Sec. 7. Any local union becoming delinquent must comply with Section 18 of Article 14 and be in good standing for four months previous to the month in which the Convention is held before it will be entitled to representation.

Sec. 8. All newly organized locals must be organized at least three months and have two months' per capita tax and all assessments paid prior to the month in which the Convention is held, before they will be entitled to representation, unless said new locals are composed of members from old locals in good standing at the time the new local was organized. The fact that a new local is composed of old members must be attested by the District Secretary.

Sec. 9. No person who is not a bona fide member of a local union employed in or around a coal mine, coal washer or coke oven or by the organization or who is not a regular attendant of the meetings of his local union shall be eligible to act as delegate. This section shall not apply
683 to International, District or Sub-District officers.

Note: The term regular attendant shall mean a member who attends at least one-half of the meetings of his local union for six months just previous to the election of delegates. If transferred, members can show they attend the required number of meetings of the local union from which they trans-

fer, Section 9 will not prevent their representing the local union to which they transfer.

Sec. 10. No appointed employe of the Organization shall be a delegate from any local union other than his own.

Sec. 11. Any member accepting a position other than that of a mine worker shall not be eligible to act as a delegate to any Sub-District, District or International Convention, or to represent the United Mine Workers in a central body or State Federation of Labor Convention while holding such position, but accepting a position with the United Mine Workers or any other affiliated Organization, shall not be construed as making a member ineligible to act as such.

Sec. 12. The International Secretary-Treasurer shall furnish the local unions with Credential blanks in duplicate, which must be attested as required on the blanks. The duplicate shall be retained by the delegate and the original forwarded to the International Secretary-Treasurer, and no credentials shall be accepted later than fifteen days prior to the date for convening the Convention.

Sec. 13. The Credential Committee shall not transfer votes to any delegate unless authorized by the local union to do so.

Sec. 14. Delegates to International Conventions must be elected at official meetings of local unions after the call
684 for the Convention is received and has been read to the local union. The local Recording Secretary shall post notices, signed by himself and the local President, at the mine at least three days prior to such meetings, stating that delegates are to be elected on a certain date. Delegates must receive a majority vote of the members present at such meeting, and no meeting other than the one first advertised and called in accordance herewith shall be recognized as an official meeting for the election of delegates.

Sec. 15. Local officers failing to read the call for a Convention to their local union, and to post notices in accordance with Section 14 of this article, shall upon conviction be removed from office, and shall not thereafter be allowed to hold office in the Organization for a period of two years.

Sec. 16. When any delegate's credential is to be contested notice of such contest shall be sent to the International Secretary-Treasurer not later than ten days prior to the date for convening the Convention; but any delegate whose credential is contested, may be unseated at any time during the Convention.

Sec. 17. All resolutions, grievances, and constitutional amendments to be considered by the Convention, shall be sent to the International Secretary-Treasurer, not less than ten days prior to the date set for the Convention, who will sort and distribute them among the chairman of the various and proper committees.

Sec. 18. Resolutions bearing on different subjects should be written on separate papers.

Sec. 19. International Conventions shall not consider internal appeals or grievances unless they have been previously considered by the lower tribunals of the Organization.

Sec. 20. The International Organization shall pay the transportation of delegates to and from International
685 Conventions on the following basis: Local unions of from ten to five hundred members shall be entitled transportation for one delegate and one additional delegate for each additional five hundred members or fraction thereof, provided such fraction is not less than twenty-five members. Where local unions combine, as provided in Section 5, they shall be entitled to transportation for one delegate for each five hundred members or fraction thereof, provided such fraction is not less than twenty-five members. Where railroad certificates cannot be secured by delegates, they shall furnish receipts for fare paid.

Article XIII.

Special Conventions.

Section 1. Special International Conventions shall be called by the President when so instructed by the International Executive Board, or upon the request of five or more districts.

Sec. 2. Representation in and transportation to and from Special Conventions shall be upon the same basis as governs regular Conventions.

Sec. 3. Districts demanding a Special Convention must state the reason or reasons why such Convention is desired, and it shall be the duty of the President to state said reason or reasons in the Call for the Convention.

Sec. 4. Special Conventions shall not have authority to consider any matter other than that which is specifically stated in the Call for the Convention.

Article XIV.

Local Unions.

Local Unions, How Formed and Governed.

Section 1. Local unions shall be composed of ten or more workmen, skilled and unskilled, working in or around
686 coal mines, coal washers or coke ovens, but seven members shall be a quorum for a local union.

Sec. 2. Mine managers, top foremen, operators' commissioners, persons engaged in the sale of [intoxivating] liquors and members of the Civic Federation or Boy Scout Movement, shall not be eligible for membership.

Sec. 3. No mine shall be under the jurisdiction of more than one local union neither shall separate locals be established for coal washer or coke oven employes, unless there is no local union having jurisdiction over some adjacent coal mine to which they can belong.

Sec. 4. The charter fee for local unions organized by salaried officers or organizers of the International, District or Sub-District unions, shall be $8.00, which shall entitle the Local organized to one charter, one press seal, one ledger, one record book, one book of orders on treasury, one treasurer's receipt book, fifty International constitutions, fifty due cards, one manual, one gravel, one copy of the proceedings of the last International Convention and such other documents as the International Secretary-Treasurer may desire to send them.

Sec. 5. The charter fee for local unions organized by local organizers shall be $15.00, $7.00 of which may be retained by the local organizer and the remaining $8.00 of which must be sent to the International Secretary-Treasurer.

Sec. 6. When a local union is organized, the Organizer must send a report and the charter fee to the International Secretary-Treasurer within one week or show valid cause for the delay.

Sec. 7. Unless a dispensation has been granted in accordance with Section 11 of Article 9, the initiation fee for
687 practical miners shall be $10.00; inexperienced miners and top and bottom men shall be subject to the laws of the District where application for membership is made.

Sec. 8. The initation fee for member's sons between fourteen and seventeen years of age, shall be $2.50.

Sec. 9. Any member wishing to attend school as a pupil, shall be granted leave of absence by his local union, and on returning to work in the mine, shall be admitted to membership without the payment of initiation fee.

Sec. 10. Any member going to work in a non-union mine shall forfeit his membership and can be reinstated only by complying with the laws relating to such offense in the District where said offense is committed, unless such work is done with the consent of the President of the District where the non-union mine is located.

Sec. 11. Any member becoming three months in arrears for dues and assessments, unless officially exonerated from the payment of the same, shall forfeit his membership and can be reinstated only by paying an initiation fee in accordance with the laws of the District in which application for membership is made.

Sec. 12. The local dues to be paid by each member shall not be less than fifty cents per month, together with such assessments as may be levied by the different branches of the Organization.

Sec. 13. Every Local Union shall pay direct to the International Secretary-Treasurer a per capita tax of 25¢ per month per member and such additional assessments as may be levied by an International Convention, referendum vote of the members or in accordance with Section 25 of Article
688 9, payment of per capita tax to be based upon the the amount of dues collected each month by the Local Union.

Sec. 14. Boys under sixteen years of age and decrepit or disabled members shall be known as half members and shall pay only half as much tax and assessment as full members.

Sec. 15. The Local Financial Secretary shall fill out and forward to the International and District Secretaries on or before the 25th of each month, a report of all members in good standing in the Local Union the previous month, together with all tax and assessment due the International and District Organizations for the previous month.

Sec. 16. In filling out the monthly reports, the Local Financial Secretary must report to the International Secretary on blanks furnished for that purpose, the amount of money paid and the number of members reported to the District, and to the District Secretary, the amount of money paid and the number of members reported to the Interna-

tional, and must sign a certificate showing the report is for the full number of members in good standing in the Local.

Sec. 17. When a Local Union has failed to report and pay as provided in Sections 15 and 16, by the end of the month, the International Secretary-Treasurer shall notify the Local President and Recording Secretary of the fact and failing to receive a satisfactory response within ten days thereafter, shall suspend the Local from membership, and any Local so suspended shall be published on the delinquent list.

Sec. 18. Local Unions placed on the delinquent list shall not be reinstated until they have paid all arrearages and a fine of $2.00 for each one hundred members, or fraction thereof, in the Local Union.

689 Sec. 19. Should it be proved that any Local Financial Secretary has failed to report monthly the full membership of his Local to the International and District Secretaries and to send in the full amount of per capita tax on the same number of members that has paid dues to the Local Union together with the full amount of assessment due the International and District Unions, the Local Union shall be suspended from all privileges and benefits until the deficiency is made good, and the officer responsible for such failure shall not be allowed to again hold office in the Organization for a period of two years.

Sec. 20. The word "member" as it appears in Section 13 of this Article, shall include all persons from whom dues are collected, whether they have taken the obligation or not.

Sec. 21. When a mine is abandoned indefinitely and all the members of the Local Union having jurisdiction over it have gone to work elsewhere, the Local Recording Secretary must notify the District Secretary of the fact and the District Secretary must make application to the International Secretary-Treasurer for exoneration for the Local Union for each month the mine is idle.

Sec. 22. In all cases, except as provided in Section 21, where Local Unions desire exoneration from the payment of per capita tax or assessments, the request for exoneration must be signed individually by the Local President and the Financial and Recording Secretaries, but no Local shall be exonerated until the request is approved by the District and International Secretaries.

Sec. 23. No Local Union shall be exonerated from the payment of per capita tax or assessments unless the members

have been idle for one month or more but it is understood that any member or members of a Local Union who have
690 been idle one month or more may be exonerated from the payment of dues and assessments by the Local Union of which he or they are members, provided such member or members are idle through no fault of their own.

Sec. 24. When exoneration is granted, the request must be renewed each month and shall be a legal substitute for the report required by Section 15 of this Article.

Sec. 25. No Local Union shall be allowed, for any reason or purpose, to divide its funds among its members, nor make donations to strikes unless said strikes have been endorsed by the American Federation of Labor or an affiliated Organization. Any Local using its funds for other than legitimate purposes, shall be fined double the amount so used, the fine to be collected by the District and turned over to the International Secretary-Treasurer.

Sec. 26. Should any Local Union for any cause disband the charter and all the moneys and supplies belonging thereto must be sent to the International Secretary-Treasurer by the Local officers thereof.

Sec. 27. All Local Unions must contribute to and comply with the valid laws of Sub-Districts, where such are organized.

Sec. 28. All Local Unions are required to affiliate with State Federations of Labor and Central Bodies if such Federations are chartered by the American Federation of Labor.

Sec. 29. All Local Unions shall set aside one meeting each month for the discussion of agreements and constitutions.

Sec. 30. Local Union supplies shall be furnished by the International Union for such prices as may be determined by the International Executive Board.

Sec. 31. Local Financial Secretaries shall, upon re-
691 quest, furnish each member with a Due Card with the amount of dues and assessments paid recorded thereon, which shall be the member's receipt for same.

Sec. 32. All Local officers shall be elected the last meeting in June of each year by a majority vote of the members present, and shall serve until their successors are elected and qualified.

Sec. 33. The date of Local elections for Local officers, mine committeemen and check weighmen must be generally ad-

vertised among the members at least one week previous to the date of election.

Sec. 34. No person shall be eligible to act as a Local officer who has not been a member of the Local Union represented at least six months. This section is not intended to apply to newly organized Locals.

Sec. 35. No person shall hold two offices in a Local Union at the same time. This section shall not apply to mine committeemen or checkweighmen.

Sec. 36. Only members who contribute to the support of checkweighmen shall have a right to vote for their election.

Sec. 37. Checkweighmen must be members of the United Mine Workers of America six months previous to their election and shall keep a record of all men employed in and around the mine and perform such other duties as may be assigned them by the men who employ them. This section shall not apply to newly organized Locals.

Sec. 38. All Local officers entrusted with the finances of the Organization must give a bond to insure a faithful performance of their duty, the amount of said bond to be determined by the Local Union. When possible, said bond
692 must be secured from [from] a reputable surety company.

Sec. 39. The Local seal shall remain in the custody of the Local Recording Secretary and that officer shall be responsible for any misuse of the same.

Sec. 40. It shall be the duty of every member to see that his Local Union is in good standing at all times, and any member failing to report to the International Office any delinquency on the part of his Local Union, must suffer any penalty applied to the Local Union for such delinquency.

Sec. 41. All Local Unions shall subscribe annually for one copy of the official Journal, pay for it in advance, and Recording Secretaries must examine every issue and read all official circulars therein to the members of his Local Union.

Sec. 42. Local Unions shall appoint label committees who shall act according to the directions of the Local in authority, in encouraging the purchase of goods bearing the union label.

Article XV.

Transfer Cards.

Section 1. All Transfer cards must be purchased from the International Secretary-Treasurer and shall be made in book

form with two stubs attached, the books to be numbered, and each card in each book to be numbered consecutively and to bear the number of the book; the stubs to be printed in conformity with the body of the card. The card and inside stub shall be filled out by the Financial Secretary and certified to by the President and Recording Secretary of the Local Union issuing the card. The inside stub must be retained by the Local Union issuing the card for future reference. The outside stub must accompany the body of the card and must be immediately filled out by the Recording Secretary of the Local Union where the card is deposited and returned by
693 him to the Recording Secretary of the Local Union that issued the card. Recording Secretaries failing to return stubs within five days after their receipt shall be fined five dollars.

Sec. 2. The form of Transfer Card in present use, facsimile of which follows this section, shall be continued as the official transfer card of the United Mine Workers of America, which is as follows:

Book No.	Any officer issuing Transfer Cards otherwise than with ink shall be fined Five Dollars	Transfer Card No.

UNITED MINE WORKERS OF AMERICA.

To Local Unions, U. M. W. of A., Greeting:

This is to certify that.....
whose age is....., height.....feet.....in., weight .....lbs., color of hair....., color of eyes.....
nationality.....distinctive marks.....
and has had.....years experience as.....
was initiated and paid the sum of.....
initiation fee (admitted by card) in Local Union No.....on the day of.....190..., and is a.....by occupation.

Having paid up all dues and assessments, and being clear of all charges up to and including the current month, in accordance with the constitution of U. M. W. of A.

Therefore Local Union No....., located at.....
State of.....Dist. No....., hereby grants him this

TRANSFER CARD.

Upon depositing this card with any local union, it shall be received.

In Testimony Whereof, we have hereunto subscribed our names and affixed the seal of our Local, this.....day of....., 19.....

.....
President.

(Seal)
of issuing local.

.....
Recording Secretary.

.....
Financial Secretary.

Book No.....
Transfer Card No.....
Date.....
Issued to.....
Occupation.....
Age.....
Height.....feet.....inches
Weight.....
Color of Hair.....
Color of Eyes.....
Nationality.....
Distinctive Marks.....
.....
.....yrs. exper. as.....
.....
President
.....
Recording Secretary.
.....
Financial Secretary.
Dues paid to.....
.....

Book No.....
Transfer Card No.....
Date.....
Issued to.....
Occupation.....
Age.....
Height.....feet.....inches
Weight.....
Color of Hair.....
Color of Eyes.....
Nationality.....
Distinctive Marks.....
.....
.....yrs. exper. as.....
.....
President
.....
Recording Secretary.
.....
Financial Secretary.
Dues paid to.....
.....

SECRETARY MUST FORTHWITH MAIL THIS SLIP TO LOCAL UNION THAT ISSUED THIS CARD.

To the Secretary of Local Union No.....
(Seal) Card No.....issued by your Local to.....
of receiving was deposited in Local Union No.....located at.....
local. .....190... Secretary L. U. No.....

Fac-Simile Transfer Card.
Section 8, of Article V, shall be printed on back of each Transfer Card.
The paper shall be of pink bond.
The seal of the International Union shall be printed on face with blue tint.

695 Sec. 3. The Transfer Card must show that the member receiving it has paid all obligations up to and including the month in which it was issued, also at what class of labor he was employed.

Sec. 4. No Local Union placed on the delinquent list or that is in bad standing with any branch of the Organization, shall have authority to issue Transfer Cards until they have been reinstated to good standing.

Sec. 5. Local officers must examine the monthly "Delinquent Statement" sent out by the International Secretary-Treasurer and shall not receive any Transfer Card issued by Local Unions appearing thereon.

Sec. 6. The International President shall have authority to restrain, for reason, or to grant any District the authority to restrain, for reason, any Local Union from issuing Transfer Cards and Local Unions receiving official notice that any Local Union has been so restrained shall not receive any Transfer Card issued by such Local.

Sec. 7. Transfer Cards issued in violation of Sections 3, 4, and 6 of this Article, will be invalid, and Local officers responsible for their issuance shall be fined $10.00 for each card so issued and permanently removed from office; or any Lo-
696 cal officer accepting a Transfer Card in violation of Sections 5 and 6 of this Article shall be fined $10.00 for each card so accepted and permanently removed from office by the International Executive Board; and any Local Union refusing to enforce the above penalties when applied, shall be placed on the delinquent list and can be reinstated only in accordance with Section 18 of Article 14.

Sec. 8. When a person who has not been a member of the organization three months or more secures a Transfer Card from a Local Union in a District where a dispensation has been granted, said Transfer Card shall not be accepted by any Local in a different District unless the holder agrees to pay the difference between the initiation fee already paid and the initiation fee of the District where he desires to deposit his card.

Sec. 9. Any member depositing a Transfer Card must pay all arrearages due on the card when deposited and shall be subject to the laws of the District having jurisdiction over the Local Union in which the card is deposited, but no District shall have authority to enact laws prohibiting the acceptance of valid Transfer Cards by any of the Local Unions within its jurisdiction.

Sec. 10. Any Transfer Card that is lapsed for a period of three months shall be invalid and shall not admit the holder to membership in any Local Union.

Sec. 11. Any member withdrawing his Transfer Card from a Local shall be known as a member of the Local issuing the card until it is deposited with some other Local or until the card is lapsed.

Sec. 12. No member holding a Transfer Card shall be entitled to strike benefits (where such are paid) from the
697 Local Union issuing the card, until such card has been re-deposited with said Local, and then only from the date on which the card was re-deposited.

Sec. 13. Due Cards shall not admit any member to membership from one Local to another. Such transfer must be made by Transfer Card, and any member in good standing shall be entitled to a Transfer Card, from his Local Union upon request, except as restricted by Sections 4 and 6 of this Article.

Sec. 14. To protect the membership of members residing where no Local Union is established, the International, District or Sub-District Secretaries shall upon presentation accept Transfer Cards and dues and assessments from such members, but no such Secretary shall accept Transfer Cards, dues or assessments from members having access to a Local Union.

Sec. 15. The Local Financial and Recording Secretaries shall keep a record of all Transfer Cards bought, issued and received by their Local Unions for inspection by the Local and Traveling Auditors.

Sec. 16. Any member of the organization found guilty of trafficking in or abusing the use of the Transfer Card shall, when possible, be prosecuted in the civil courts and shall in every instance be permanently expelled by the International Executive Board.

Sec. 17. No legal holder of a valid Transfer Card, who has complied with Sections 8 and 9 of this Article, shall for any reason be debarred from membership in any Local Union or hindered from securing employment in any mine under the jurisdiction of the United Mine Workers of America. Violation of this clause shall be prosecuted under Section 2 of Article VI.

Sec. 18. Transfer cards issued by the Western Federa-
698 tion of Miners, the International Mining Congress and miners unions in Australia and New Zealand shall be ac-

cepted by the United Mine Workers subject to the same provisions governing the acceptance of United Mine Workers' cards.

Sec. 19. Transfer Cards of the Provincial Workmen's Association shall not be accepted.

Article XVI.

Strikes.

Section 1. No District shall be permitted to engage in a strike involving all or a major portion of its members, without the sanction of an International Convention or the International Executive Board.

Sec. 2. Districts may order Local Strikes within their respective Districts on their own responsibility, but where local strikes are to be financed by the International Union, they must be sanctioned by the International Executive Board.

Sec. 3. Strikes shall not be called in any unorganized field without the sanction of an International Convention or the International Executive Board, and no financial aid shall be furnished by the International Union for the support of any strike until after the strike has been in effect four weeks, unless otherwise decided by the International Executive Board.

Sec. 4. The International Executive Board shall decide the conditions upon which strikes may be financed by the International Union; determine the amount of relief to be paid per member involved, etc.

Sec. 5. When strikes are sanctioned and financed by the International Union, the International President may appoint, subject to the approval of the International Executive Board, a financial agent who shall assume responsibility for all international funds so expended, said financial agent to be bonded;
699 amount of bond to be determined by the International Executive Board, and no bills shall be paid by the International Union unless contracted or authorized by [siad] financial agent, the resident International Officers or the International Executive Board.

Sec. 6. When strikes are financed by the International Union the International Secretary-Treasurer shall furnish each Local Union involved with report blanks on which all expenditures must be detailed as provided on the blanks, and the Recording Secretary shall fill out said blanks weekly; have the same attested by the Local President and Financial Secretary; attach the seal of the Local Union and forward one

copy to the International Secretary-Treasurer; one copy to the financial agent in charge of the finances and retain one copy in the Local Union for future reference. Local Unions failing to comply with this section shall not receive financial relief from the International Union.

Sec. 7. The International Secretary-Treasurer shall devise a uniform system of accounting for the use of financial agents handling strike funds for the International Union, and it shall be the duty of the traveling auditors employed in the District where the strike prevails, or such persons as may be authorized by the International President, to audit the accounts of the financial agent at least every quarter of the period of the strike, or as often as the International Secretary-Treasurer may consider an audit necessary, and a final audit must be made when the strike is ended, and the auditor making such audits shall file a report of each audit with the International Secretary-Treasurer, who in turn shall submit them to the membership in his financial report.

Sec. 8. Any member who leaves a locality where a
700 strike is in progress, goes to work in another locality and remains away one month or more, shall not be entitled to strike benefits if he returns to the strike zone while the strike is on.

Article XVII.

Organizers.

Section 1. Organizers Commissions must be signed by the International President and attested by the International Secretary-Treasurer.

Sec. 2. International Organizers shall work under the direction of the International President or the International Executive Board and shall have authority to visit any local Union within the jurisdiction of the United Mine Workers, when directed by the proper authority to do so.

Article XVIII.

Charges and Method of Trials.

Section 1. When any officer of the Organization, other than Local, is charged with an alleged official offense against the Organization or any of its members, the charge must be lodged with the Executive Board of the branch of which he is an officer and the decision of said Executive Board shall close the case insofar as such tribunal is concerned, but should the accused or his accuser be dissatisfied with the decision of the

tribunal first trying the case, either shall have the right of appeal to the next highest tribunal in authority and so on until a final decision is reached, as provided in Section 3 of Article 3.

Sec. 2. When any Local officer or any member not an officer is accused of violating any of the Organization's laws or of any transgression against the Organization or any of its officers or members, the charge must be first lodged with and prosecuted before the Local Union of which the alleged
701 offender is a member and the decision of the Local Union shall close the case insofar as that tribunal is concerned, but should the accused or his accuser be dissatisfied with the decision of the tribunal first trying the case, either shall have the right of appeal to the next highest tribunal and so on until a final decision is reached, as provided in Section 3 of Article 3.

Sec. 3. When Sub-District Conventions are in session, they shall be recognized as an intermediary trial tribunal between the Sub-District and District Executive Board, and District Conventions in session shall be recognized as an [intemediary] trial tribunal between the District and International Executive Board and International Conventions in session may assume the functions of the International Executive Board, but if it can be shown that any case prosecuted under this article has been unnecessarily delayed on account of awaiting the arrival of a Sub-District, District or International Convention, said Conventions shall refuse to consider the case, and shall refer it back to the respective Executive Board without prejudice.

Sec. 4. When it is proved that either party to a case has wilfully failed to appear before the proper tribunal for a hearing, after receiving official notice to do so, the case shall be decided in favor of the disputant so appearing and no appeal shall be allowed, and if neither disputant appears, the case shall be closed by default.

Sec. 5. The tribunal first trying any officer or member for any offense against the Organization or any of its members except as elsewhere herein provided, shall have the right to fix the penalty, for the offense, and if sustained compliance with the penalty so imposed will be the only basis upon which the offender can regain good standing in the Organization.

Sec. 6. The foregoing sections of this article shall not
702 prohibit the enforcement of penalties as provided elsewhere in this Constitution. Neither shall they prohibit the use of the right of recall as provided by Section 29 of Article XI.

Article XIX.

Official Journal.

Section 1. The United Mine Workers' Journal, official organ of the Organization shall be issued on Thursday of each week from headquarters. It shall be a medium for circulating news of interest to the craft; shall publish from time to time the important transactions of the Organization, general mining and trade news, together with copies of official circulars and financial reports, and other matters of general interest. It shall be non-sectarian in religion, dignified in tone, and shall serve the political interest of our members and the general movement.

Sec. 2. The Editor shall have charge of all correspondence, reports or other matters of a literary character and shall oversee the mechanical work and superintend the make up of the paper. He may publish upon request the announcement of any candidate for office, but he shall not publish any article for or against any candidate for office in the Organization.

Sec. 3. The business management of the Journal shall be under the management of a person appointed by the President and he shall have charge of the circulation and advertising, but he shall not accept advertisements from any firm that is unfair to organized labor, or any other firm without first investigating such advertisement.

Sec. 4. The Manager must give a bond, the amount of said bond to be specified by and the bond approved by the
703 International Executive Board.

Article XX.

Miscellaneous.

Section 1. Any officer or any member of any branch of the Organization guilty of embezzlement of or misappropriating any of the funds of the Organization, shall be prosecuted by every means possible by the branch whose funds are embezzled or misappropriated, and shall not be allowed to hold any office in the Organization thereafter.

Sec. 2. Any officer of any branch of the Organization accepting a salaried political office other than that of a State Legislator, Member of Congress, Member of Provincial or Dominion Parliament, County Sheriff, or Member of State Board of Arbitration, Local School Board, City, Boroughs or Town Council or local Poor Boards, Member of Miners' Exam-

ining Boards, granting certificate of competency or member serving on Industrial Insurance Commissions, shall resign his office in the United Mine Workers immediately upon his acceptance of the same.

Sec. 3. Any member guilty of slandering or circulating or causing to be circulated false statements about any member of or any member circulating or causing to be circulated any statement wrongfully condemning any decision rendered by any officer of the Organization, shall upon conviction be suspended from membership for a period of six months and shall not be eligible to hold office in any branch of the Organization for two years thereafter.

Sec. 4. Any officer or any employe of any branch of the Organization seen in public in a state of intoxication while on duty, shall upon conviction be at once removed from his position by the proper authority having jurisdiction
704 over such officer or employe.

Sec. 5. All officers of all branches of the United Mine Workers of America must upon retiring from office, turn over to their successors all moneys, official records and documents, and all property belonging to the Organization that may be in their possession at the time of their retirement.

Sec. 6. Any member of the United Mine Workers of America who furnishes a complete or partial list of our membership to any person or persons, except to those whose official business requires them to have such a list shall be subject to a fine of ten dollars and be debarred from holding office in the Organization for a period of one year.

Sec. 7. When possible, all persons employed by our Organization in and around headquarters and the United Mine Workers' Journal shall be members of organized labor.

Sec. 8. Sick, accident and death benefit funds may be established by Districts, Sub-Districts or Local Unions if desired by two-thirds of the members of the respective bodies.

Sec. 9. This Constitution shall be in effect from April 1, 1914, until March 31, 1916, and can be amended only by a majority vote of the delegates attending the regular International Convention.

Burial Service.

The following burial service is adopted to be used at funerals of deceased members of the United Mine Workers of America.

Brother Workmen: We are assembled here today to pay a last sad tribute of love to our departed friend and brother. This solemn occasion speaks forcibly of our mortality. We can say with the Psalmist: "What is man that thou are mindful of him or the son of man that thou visit-
705 eth him, for man that is born of woman is full of trouble and sorrows. He cometh forth like a flower and is cut down. Our years of labor are brought to an end. Our dust shall return to the dust as it was, and our spirit to the God who gave it."

Again, brother workmen, we are reminded that we too are but mortal and will soon break the tenement of clay and depart for the hereafter, and it behooves each of us to follow a line of conduct that will bring about a closer friendship, one that is true to God and man.

All our beautiful surroundings tell us of God's greatness and goodness, of the universe of which we are children of His creation.

But why should we be sad and mournful, when God can give us consolation while living here on earth, for His promise is that we shall meet again in the realms above for the Word of God teaches us that we shall again meet after death.

And now, our brother workman, we pay the last sad rite and tribute of respect, the last one we can pay you in this world, placing on your grave these evergreens as a token of respect, that thy memory shall be with us always, though thou hast paid the debt and hast gone to the realms above:

And now to the family and friends of this, our deceased brother, we tender our heartfelt sympathy in this their sad hour of affliction, and bid them look to God for His tender mercies for He alone can give them consolation.

And now, fellow workman, we bid thee a tender and loving farewell.

Let us pray; And now may grace, mercy and peace from God the Father, Son and Holy Spirit rest and abide with you now and for-ever-more.

Amen."

706 Mr. Warrum: I read a reference to the transfer card, but I will not read that card unless counsel on the other side wants it read.

(Transfer card not read by counsel.)

"Q. Now some questions have been asked you about districts and locals. Explain the nature and character and functions of district organizations?

A. Under our form of organization districts are given the right of self-government, the broadest autonomy.

Q. Do these districts have an organization of their own?

A. Each district has an organization of its own.

Q. Does it have district conventions?

A. Yes, sir.

Q. Do they elect district officers? A. Yes, sir.

Q. Do they have a district constitution?

A. Yes, sir.

Q. Who elects the district officers?

A. The membership within the respective districts.

Q. What would be district No. 11, for instance?

A. All the bituminous section of Indiana.

Q. And does Ohio constitute one district?

A. Ohio constitutes one district.

Q. And what is District 21 composed of?

A. Oklahoma and Arkansas and Texas.

Q. Now in these various districts who elects the officers?

A. The membership within the respective district.

Q. Who makes adopts and changes from time to time, if there be changes, the constitution of the district organizations? A. The membership within the district.

Q. Now describe what a local union is?

707 A. A local union is composed of men, of mine workers, working at any particular mine or group of mines, as the circumstances may warrant.

Q. Do they have their own constitution and by-laws to govern themselves in their local unions? A. Yes, sir.

Q. And do they have officers? A. Yes, sir.

Q. Who makes and changes their constitution and who elects their officers?

A. The membership of the local union.

Q. Now is it not a fact that the only requirement in the organization and government of a district, or under it, of a local union, is that the constitution and laws of the local shall not conflict with the constitution and laws of the district or of the International Union; and that the only limitation put upon the self-government of a district is that its

constitution and policy shall not conflict with the International Union? Is that true?

A. That is true.

Q. Now the International Union then, as I understand, consists of the aggregate of all the miners and members that are affiliated with the union?

A. Yes, sir; the International Union is made up of the local unions of the United Mine Workers of America.

Q. Now how do they give expression to their wants or policies—by conventions or referendum vote?

A. By both.

Q. How are the officers elected?

A. By referendum vote of the membership.

Q. How often do you hold conventions of the membership of the International Union?

A. Each two years.

708 Q. Beginning with 1908 down to 1912 how often were conventions held by the International Union?

A. Annually.

Q. Where did they meet during those years in International Convention—in Indianapolis? A. Except once.

Q. Usually in the city of Indianapolis?

A. Usually in the city of Indianapolis.

Q. Where the officers of the International Union have their headquarters?

A. Yes, sir, where the headquarters are.

Q. Now how is that convention composed?

A. It is made up of [deleagtes] from local unions.

Q. Elected by the local unions of the United Mine Workers of America? A. Yes, sir.

Q. Have you been a member of or participated in any of the conventions of the International Union in the last few years? A. Yes, sir.

Q. Since when?

A. I have—I am sure I have attended every convention of the United Mine Workers held since 1900.

Q. Now among other functions performed at these conventions you have a scale committee, have you not?

A. Yes, sir.

Q. The convention has appointed a scale committee, is that true? A. Yes, sir.

Q. What is the purpose of the scale committee?

A. All resolutions introduced by delegates bearing upon the scale is referred to the scale committee, and the committee acts upon them and reports to the convention.

Q. How is their report generally known? Is there any particular term by which it is known in the affairs of the convention or union? Is it called the miners demands? The report of the scale committee is what? Is it the demand?

A. It is called in some instances the miners' demands, in others the scale committee's report.

Q. You were in the convention of 1912, were you not?

A. Yes, sir.

Q. Were you an officer of that convention?

A. No, I was not an officer.

Q. Were you a member of the scale committee or do you remember? A. I can not recall whether I was or not.

Mr. Warrum: I will ask the Notary to mark this paper for identification as the Defendants' Exhibit No. 2.

The Notary did as requested.

Q. I will hand you Defendant's Exhibit No. 2 marked by the reporter for identification and ask you to state what it is? That is a copy of the report of the scale committee to the convention of 1912, is it not?

A. Yes, sir; this is a copy of the report of the scale committee to the convention of 1912 and includes therein the miners' demands.

Mr. Warrum: Now I will offer and have introduced in evidence as part of the cross-examination of the witness Green, the paper marked Defendants' Exhibit No. 2 by the Notary and identified by the witness as a copy of the report of the scale committee to the convention of the International Union in 1912 and adopted by said convention."

Mr. Drinker: We object to the introduction of that paper, not because we object to the contents of it, but because the paper referred to by the witness was a typewritten copy of some other paper and the original of that is contained in the joint convention reports produced by the witness, and which is here on the table.

The Court: What was the objection made at the time?

Mr. Drinker: "I object to the statement of counsel as to what the paper consists and object to the introduction of the paper on the ground that it is not an original."

The typewritten copy shows on its face that it has no signatures. The first thing they had was sent to the printer, and then they got back the printed reports, and the witness said they were always used. If they introduce those origin-

als I have no objection, but I object to these typewritten papers, because I do not want to consent to their using this kind of evidence and then have them object to my using the same kind.

The Court: I suppose that if this is not an original, the objection is well taken.

Mr. Warrum: The original is gone.

The Court: Have you shown that the originals are gone?

Mr. Warrum: Yes; Mr. Drinker will admit that they were sent to the printer.

The Court: Then let the record show that.

Mr. Drinker: He stated the first original was gone, but he stated that the printed copies were used by all of the parties.

The Court: Suppose they were, you would not have to produce the others, if he has testified they were copies of the originals.

Mr. Drinker: I do not think he has testified that that was a copy of the original [original]. I think this was
711 copied out of a book because the original was gone for four years.

Mr. Warrum: Yes, this is a copy of the report of the scale committee of the convention of 1912.

The Court: The objection is overruled; it will be received.

Mr. Drinker: We except.

The Court: Exception allowed.

"The said paper so marked and so offered being as follows, to-wit:

"Defendants' Ex. No. 2

Dep. of Green

W. S. G. Notary

Report Of Scale Committee—1912.

"Whereas, The ever increasing and already too high cost of living without a corresponding increase in the wages of our members is making it not only impossible for our people to keep pace with the improvements of their standard of living that modern civilization makes necessary, and which they

should have, but is making increasingly hard and bitter the struggle to get even the barest necessities of life, and

"Whereas, the invention of labor-saving machinery; the introduction of oil and gas as fuel; the utilization of electricity generated by our waterways and the prospective development of more and more of it, as well as the greater efficiency of the modern organization and more highly skilled labor, are making necessary the long hours of labor on the part of the workers, and the especially dangerous nature of our calling, away from the light of day; isolated from all other human beings; surrounded by unknown and un-
712 knowable dangers, our health affected and our lives shortened by being compelled to inhale continually the deadly damp, poisonous gasses and equally enervating and lung-befouling millions of particles of the always present dust and smoke, we believe that we are entitled to a substantial increase in our wages and that our work day should be minimized.

"Miners' Demands.

"1. That all coal be weighed before being screened and paid for on the mine run basis and that the readjustment of the prices be made on the basis of the actual percentage of screenings as compared with lump coal.

"2. That we demand a flat 10 cents per ton increase as the basing points.

"All dead work shall be paid for.

"3. Twenty per cent increase on all dead work; deficient work, yardage and day labor.

"4. Uniform work day and wage scale for all classes of outside and inside day labor.

"5. A proper readjustment of the machine differential at the basing point of Illinois, Indiana, Ohio and Western Pennsylvania.

"6. That a uniform day of seven hours at the working place for all classes of inside labor be made the basis of the above scale, based on present prices.

"7. That five hours constitute a day's work on Saturday.

"8. We demand weekly payments. The coal companies shall not be permitted to have more than two weeks' wages held in their offices at any one time.

"9. We demand that there shall be no limit to the amount of deductions made through the companies' offices for
713 the miners' organization.

"10. We demand that there shall be no discrimination by the coal companies in the employment of mine workers on account of creed, color or nationality, or because of activity in matters affecting the organization, and that every mine worker shall be given work in his turn when applying for same.

"11. We demand that all local inequalities and internal differences be referred to the district affected.

"12. We demand that this contract shall be entered into for a period of two years, becoming effective April 1, 1912."

"Q. You have the original of the report as it was prepared at that time, have you?

A. No, we do not have the original. That was sent to the printer.

Q. Now this report appears in the proceedings of the Annual Convention of the International Union for 1912, which was among the books produced by you for the inspection of plaintiffs' counsel at this hearing, and which they had identified by the reporter; is that true? A. That is correct.

Q. Now I will ask you if you were in the—I believe you said you were in the convention of 1914? A. Yes, sir.

Mr. Warrum: Mr. Notary, will you mark this paper for identification as Defendants' Exhibit No. 3.

The Notary did as requested.

Q. Now I will hand you what the reporter has marked for identification as Defendants' Exhibit No. 3 and ask you to state what that paper is?

A. That is the miners' demands made by the convention of United Mine Workers held in 1914.

714 Q. Was that the report of the scale committee to the convention? A. Yes, sir.

Q. Was it adopted by the convention? A. Yes, sir.

Q. Has the original of that or of Exhibit No. 2 been preserved? A. No, sir.

Q. You said a moment ago that the original of the report had been handed to the printer?

A. The original of this report as well as of the other has been sent to the printer.

Q. Were they ever returned?

A. Never returned to our office.

Mr. Warrum: Now we will offer and introduce in evidence as part of the cross examination of the witness Green, Defendants' Exhibit No. 3."

Mr. Drinker: Same objection.

The Court: Same ruling.

Mr. Drinker: We except.

The Court: Exception allowed.

"The said paper so offered and marked Defendants' Exhibit No. 3 being as follows, to-wit:

"Defts. Ex. No. 3

Deposition of Green

W. S. G.—N. P.

Miners' Demands—1914.

First. That all coal be weighed before being screened and paid for on a mine run basis.

Second. That we demand a flat five cents per ton increase at the basing point.

Third. A ten per cent increase on all dead work, yardage and day labor.

715 Fourth. A uniform day and wage scale for all classes of outside and inside day labor.

Fifth. A proper readjustment of the machine differential at the basing point.

Sixth. That we demand a complete check-off for the miners' organization through the companies' office.

Seventh. That we demand that all local inequalities and internal differences be referred to the various districts affected for settlement.

Eighth. We demand that where the price or regulation of powder is made a contract provision that union-made powder shall be furnished.

Ninth. That the miners work only one-half day on Saturday.

Tenth. That the company shall pay drivers for time from taking charge of stock until they, the company, receive the same.

Eleventh. We demand that our contract shall be in effect for two years."

Q. Now, Mr. Green, calling your attention to the other annual conventions in which you have served besides those of 1912 and 1914, I will ask what was done by the—I will ask you whether or not scale committees were appointed in those conventions and reported to the convention for its approval the so called miners' demands? A. Yes, sir.

Q. They were of similar character varying as to the amounts demanded? A. Yes, sir, or the phraseology used.

Q. Now what action was taken so far as you know in all these conventions upon the reports of the scale committee with reference to the miners' convention—were they voted upon?

A. They were voted on by the membership and adopt-
716 ed by a majority vote of the delegates in attendance at the convention.

Q. Were these miners' demands, the reports of the scale committees that have been introduced in evidence, in the conventions of 1912 and 1914, approved by those conventions?

A. Yes, sir.

Q. Now following the approval of the report of the scale committee, or the adoption of the miners' demands, as they are called, what action was taken with reference to negotiations with any or all districts, or of the operators rather, of any or all districts, to the end that wage contracts might be secured for specific periods embodying these demands?

A. They were presented to the coal operators by the representatives of the mine workers.

Q. I will ask you first then if there was a letter usually sent out by the president of the International around to all the operators in a particular field for a joint conference—was that the custom to have a conference called?

A. Well, the plan of arranging joint conferences in the various districts varied.

Q. What was the first conference held?

A. Usually the first conference held was that between the operators and miners of the Central Competitive District.

Mr. Warrum: I will ask the Notary now to mark the paper that I hand him Defendants' Exhibit No. 4 for identification.

The Notary did as requested.

Q. I will hand you Mr. Green, a paper marked Defendants' Exhibit No. 4 by the reporter for identification and ask you to state what that paper is?

A. That is an invitation sent out to the miners and
717 operators of the Central Competitive District by the president of the International Union to meet in joint conference in the city of Indianapolis.

Mr. Warrum: We offer and introduce in evidence as part of the witness Green's cross-examination the paper marked Defendants' Exhibit No. 4.

The said paper so offered and so marked being as follows, to-wit:

"Defts. Ex. No. 4 Green.

W. S. G. Notary

Indianapolis, Indiana, Jan. 9, 1912.

To the Representatives of the Operators and Mining of Ohio, Western Pennsylvania, Illinois, Indiana and West Virginia:

Gentlemen: The wage contracts in practically all the bituminous coal producing states of the country, also in those of the anthracite region, will expire on April 1st.

We must recognize that the time is short in which to secure agreements for the future, and the situation such that the welfare of the operators and miners, as well as that of the general public, demands that some action be taken to try to arrive at conclusions that will obviate if possible a condition of affairs on April 1st of serious and far reaching effect.

With this object in view, and being actuated by a sincere desire to see wage contract negotiated in all the coal fields of our country, I have decided to issue a call for a joint conference of the operators and miners of the above mentioned states; namely, Ohio, Western Pennsylvania, Illinois, Indiana and West Virginia, for the purpose of negotiating a wage scale to be effective commencing April 1st. Said
718 conference to convene at Indianapolis, Claypool Hotel, Thursday, January 25th, 1912, 2:00 p. m.

Expressing the hope that this matter will be presented to your respective associations and that they will be represented at this meeting, I am,

Your very truly,

JOHN P. WHITE,
President U. M. W. of A."

"Q. Now what occurred after the convention had adopted the report of the joint scale committee and indicated its miners' demands, with reference to having a conference in the field that you call the competitive field? Was there a meeting in accordance with this invitation?

A. There was a meeting in accordance with this invitation and a joint conference of miners and operators was held.

Q. How many of those joint conferences have you participated in in this Central Competitive Field?

A. I have participated to the best of my recollection in every joint conference of miners and operators in the Central Competitive Fields since 1900.

Q. Where would they meet pursuant to the notice and letters of invitation of this character?

A. A number of meetings were held in Indianapolis.

Q. In any other cities?

A. Cleveland and Columbus, Ohio, I think.

Q. Any other cities that you remember—Chicago?

A. Chicago.

Q. Philadelphia and Cincinnati?

A. Philadelphia and Mobile, Alabama.

Q. Cincinnati? A. Cincinnati.

719 Q. Atlantic City?

A. No, we never got there.

Q. Did you ever meet in Philadelphia? A. Yes.

Q. Toledo? A. Yes.

Q Now where would they meet, Mr. Green, with reference to buildings that they would meet in—the character of the place of meeting?

A. Usually in a hall provided for that purpose, or the assembly hall in a hotel.

Q. Who provided the hall?

Q. Usually some representative of the miners' organization would arrange for it—some local or private persons.

Q. Who would pay the expenses incident to the hall?

A. Well, the meeting place was usually furnished by the city or the people or the committee.

Q. Now when you would meet in the hall or some large room or assembly room in a hotel, just describe how the meeting met. Did the operators sit on one side of the room and the miners on the other? A. Yes, the operators would occupy one side of the meeting place and the miners on the other.

Q. Was that provided in the rules for joint conference meetings? A. It was in some instances provided by specific action, and in others by custom.

Q. Who presided there? Who would preside at the meetings?

A. A Chairman elected by the duly credited representa-

Q. And did they have a secretary?

A. A secretary yes, sir.

Q. Now how were the miners representatives selected for that conference?

A. They were selected by the miners in their respec-
720 tive districts.

Q. At district meetings?

A. At district meetings.

Q. And how were the representatives of the operators selected, if you know?

A. I am not informed as to their basis of representation.

Q. How many of the representatives of the miners would sit in a conference of that character representing one district or one state, say Indiana?

A. Well, in the early days, all miners from different states and all the operators would participate in the preliminary meetings of the joint conference, and then they would enter into a general discussion of the subject matter before the conference.

Q. And they would appoint a scale committee?

A. I am coming to that. Then each district represented in a joint conference would hold separate meetings and elect their scale committee to which the subject matter before—to which all matters before the house would be referred for consideration and action with instructions that they report later to the open joint conference.

Q. Then in the first years of our experience and association and participation in these conferences, they would first meet as mass meeting of miners and all the operators that cared to attend? A. Yes, sir.

Q. And out of that organization there were various committees? A. Yes, sir.

Q. What is the system now, if you know, and when was the present system adopted, with reference to the selection of delegates representing the miners of each state in the field?

A. They have provided since 1912 for a meeting of representatives of the miners and operators of the four
721 states— that is, the meeting of a committee of miners and operators rather than a meeting of all miners and operators, as held prior to 1912.

Q. How many miners would represent the state of Illinois —two or four? A. Four, I think.

Q. And Indiana the same number?

A. The same number. That is four members and four alternates.

Q. And Ohio and Western Pennsylvania have the same representation, is not that true? A. Yes, sir.

Q. And the operators had equal representation?

A. Yes, sir.

Q. If at any particular meeting it was reduced two, the miners would have two, the miners of each state would have two? A. Yes, sir.

Q. Where the miners had four the operators had four?

A. Yes, sir.

Q. That is correct? A. Yes, sir.

Q. What rules were adopted within your experience with reference to the character of the vote required to adopt any matter of importance or major matter?

A. All main or principal questions were required to be adopted by unanimous vote.

Q. If the operators of one state or part of the operators of one state, or the miners representatives from one state or part of that state refused to vote for any proposition on any main or principal question it was lost; is that so?

A. Yes, sir.

Q. Now after your meeting was organized, that is after the meeting of the joint scale conference was organized, what did the miners do with reference to presenting their demands?

A. They would present their demands to the coal
722 operators in a formal way.

Q. Were those demands the reports that you have testified to which had been previously adopted in the convention of the International Union as the report of the scale committee? A. Yes, sir.

Q. Now following the presentation of the miners' demands what did the operators do, in a general way? Did they present a counter proposal?

A. In a general way they would invariably reject the demands proposed by the miners and propose a counter proposition.

Q. These demands usually called for an increase in wages and a change for what the miners deemed the betterment in the conditions of labor, the conditions surrounding the mines sanitary and otherwise, and other requirements which the miners thought they were entitled to?

A. Yes; and in addition to that they tended to raise the standard of living among the mine workers.

Q. Now what followed —debates?

A. And very heated debates in practically very instance,

Q. How long would these sessions last? Give a definite instance. A. They would last from one week to three weeks and then many times would adjourn to meet at a later date, at the same place or at some other place.

Y. Now each day would you meet while these sessions were going on? A. Yes, sir.

Q. Would the debates continue?

A. Yes, sir, from day to day.

Q. And the debates covered the different propositions involved in the miners' demands, did they?

A. Yes, sir.

723 Q. And they were discussed from all possible angels; is that true? A. Yes, sir.

Q. The miners insisting on their demands and the operators protesting against acceding to them; is that the way?

A. Yes, sir. The miners would offer the best argument possible in support of their demands and the operators would offer argument in opposition to the acceptance of the demands.

Q. Now did they ever adjourn without coming to any agreement at all? A. Yes, sir; in a number of instances they adjourned sine die without reaching an agreement.

Q. What years would that be?

A. Well, one I have in mind is 1906; and later I think there were other times when the joint meeting adjourned without reaching an agreement.

Q. Would they also adjourn subject to a later call and take up the matter again and wrestle further with it?

A. Yes, sir, they would take a recess.

Q. Do you remember any instances of that character?

A. Yes, sir, I recall a meeting in Philadelphia and then adjourning to meet in Chicago.

Q. Now when they came to an agreement was that agreement reduced to writing?

A. It was reduced to writing and was in every instance I think tentatively agreed to, subject to approval by the members of the United Mine Workers of America.

Q. Now since 1912 how has that approval by the United Mine Workers of America of the joint scale agreement adopted in the competitive field been secured?

A. By referendum vote of the members of our whole organization.

Q. Does that refer to a vote of the entire member-
724 ship? It is, is it not? A. The scale submitted for referendum vote in the bituminous field is to my recollection —has been to my recollection referred to the membership of our organization in the bituminous coal mining districts;

and the scale in the anthracite coal mining districts, the scale effective in the anthracite coal districts has been referred to the membership in the anthracite coal districts for approval.

Q. Now before 1912 how was this ratification secured?

A. By the delegates of the United Mine Workers of America in convention assembled.

Q. Would the convention that had adopted the report of the scale committee, the miners' demands as it it termed, continue their session until after the meeting of the joint scale committee for the competitive field was held, in order to ratify its agreement? A. Yes, sir.

Q. Usually by way of an adjourned session, was it not? A. Yes, sir.

Q. They were called together when the labors of the joint scale committee were finished in order to take up and dispose of the question of ratifying or repudiating that agreement?

A. Yes, sir.

Q. And the agreement was not binding until it was ratified by the membership of the International Union before 1912 in convention assembled, and after 1912 by referendum vote? A. That is correct.

Q. Now you stated that the conclusion that was arrived at in the joint scale conferences in the competitive field was reduced to writing and agreed upon subject to the approval of the union? A. Yes, sir.

Mr. Warrum: Now I will ask the reporter to mark
725 this paper which I hand him defendants' Exhibit No. 5 for identification.

The Notary did as requested.

Q. I will hand you a paper which has been marked Defendants' Exhibit No. 5 by the reporter, and ask you to state what that is? A. This is a copy of an agreement entered into between the miners and operators of the Central Competitive District for the year 1912.

Q. Have you the original in your files, do you know?

A. No, I am pretty sure we do not have it. I am sure that I do not have in my office a copy of the original agreement signed, or I do not have the original agreement in my office.

Q. If the original agreement was in the office here you would have charge of it as Secretary-treasurer — you would be the custodian of it? A. It may be that the President would have it — the original copy.

Q. Was it one of the papers that has been sent to the printer from time to time? A. Yes, that is sent to the prin-

ter for the purpose of having the joint convention proceedings printed.

Q. I will ask you whether the office here has in its files the original agreement? A. We do not have it.

Mr. Warrum: I now offer and introduce in evidence as part of the cross-examination of the witness Green the paper marked Exhibit No. 5.

The said paper so offered and marked Defendants' Exhibit No. 5 being in the words and figures following, to-wit:

"Defts. Ex. No. 5, Green.

W. S. G. Notary.

726 Agreement — 1912.

The United Mine Workers of America having voted to accept the agreement negotiated at Cleveland, the representatives of the miners and operators of the several states were called together as provided and met in Indianapolis, Ind., April 25th, 1912, and executed the following agreement, to-wit:

Interstate Agreement.

The following agreement, made and entered into this 30th day of March, 1912 covering the prices and conditions of mining in Western Pennsylvania, Ohio, Indiana, and Illinois, for the two years ending March 31, 1914, to-wit:

First. That the prices of mining be increased five cents per ton on inch and a quarter screened lump coal, pick mining in Western Pennsylvania thin vein, the Hocking, the basing district of Ohio, and both Block and Bituminous districts of Indiana; and three cents per ton on mine-run coal, pick mining, in the Bituminous districts of Indiana and Illinois.

Second. That the price of machine mines be increased four cents per ton on screened lump coal in Western Pennsylvania thin vein, the Hocking, the basing district of Ohio; four cents per ton on screened lump coal in the Block and Bituminous districts of Indiana, and three cents per ton on mine-run coal in the Bituminous districts of Indiana and Illinois.

Third. That internal differences be referred for adjustment to the various districts affected, it being understood that nothing shall be done in district or sub district conventions that will increase the cost of production or reduce the earning capacity of the men.

Fourth. That the inside day wage scale shall be advanced 5.26 per cent, with the conditions of the Columbus Day
727 Wage scale of 1898.

Fifth. That all narrow, dead work and room turning and outside day labor shall be paid a proportionate advance with the pick mining rate, viz: 5.26 per cent.

Sixth. That the screen hereby adopted for the State of Ohio, Western Pennsylvania and the Bituminous district of Indiana, shall be uniform in size, six feet wide by twelve feet long, built of flat or Akron shaped bar, of not less than 5/8 of an inch surface, with 1¼ inches between the bars, free from obstruction, and that such screen shall rest upon a sufficient number of bearings to hold the bars in proper position.

Seventh. That the Block coal district of Indiana may continue the use of the diamond bar screen, the screen to be 72 feet superficial area, of uniform size, and 1¼ inches between the bars, free from obstructions, and that such screen shall rest upon a sufficient number of bearings to hold the bars in proper position.

Eighth. The above scale is based on an eight-hour day, as defined by the Columbus Day Wage Scale of 1898.

Ninth. That there shall be no discrimination by the coal companies in the employment of mine workers on account of creed, color or nationality, or because of activities in matters affecting the organization.

For United Mine Workers:

Western Pennsylvania.

FRANCIS FEEHAN.
VAN BITTNER
ROBERT WOOD.

Ohio.

JOHN MOORE
728 J. W. SAVAGE

Indiana.

Bituminous—
W. D. VAN HORN
CHAS. FOX.
Block—
LAWRENCE GARRIGUS
GEORGE PHILLIPS

Illinois.
J. H. WALKER
DUNCAN McDONALD
United Mine Workers of America
By JOHN P. WHITE, Pres.
EDWIN PERRY, Sec'y.

For Operators:
Western Pennsylvania.
GEO. W. SCHLEUDERBERG
W. W. KEEFER

Ohio.
F. A. COLE
C. E. MAURER,
per M. D. Ratchford

Indiana.
Bituminous Coal Operator Assn.
HUGH SHIRKIE, Vice-Pres.
P. H. PENNA, Sec'y.

Illinois.
Illinois Coal Operators Assn.
By H. N. TAYLOR, Pres.
F. C. HONNOLD, Sec'y.

Fifth and Ninth District Assn.
729 By R. W. POPIEQUET, Pres.
FRANK F. TIRRE, Sec'y.
J. S. KOLSEM, Chairman.
EDWIN PERRY,
Secretary, of Joint Conference."

Q. Now is there any other or further authority conferred upon the representatives of the miners who meet the operators in the competitive field in the joint state conference, or any direction or authority given them by the convention or by the union, otherwise than in the report of the scale committee of the particular convention from which they went and to which they made their report?

A. No other authority conferred upon them except that conferred by the convention.

Q. Was there any resolution or motion, oral or written, undertaking to confer authority upon the representatives of the miners who met the operators in the Central Competitive Field in the joint scale conference, undertaking to give them any other or further authority or directions except the reports of the joint scale committee known as the miners' demands?

A. No, no authority except that given by the convention.

Q. And in each instance the representatives of the miners reported to the convention that had appointed them and given them their authority their doings and the conclusions and tentative agreement with the operators of the Central Competitive Field for the approval of the Union, in convention assembled?

A. Either the convention or the referendum vote of the membership.

Q. Was there every any agreement oral or written, expressed or implied, between the representatives of the
730 miners and the operators of the Central Competitive Field, meeting in their various joint scale conferences in which you have participated from 1890 to the present time, in which they entered into any agreement or had any understanding other than that specified and set out in the joint scale agreement, signed by the representatives of the miners and the operators participating in those conferences, and reported to the union for its approval, either by convention action or referendum vote? A. There was not.

Q. Now you have been asked about the Journal. What is the Miners' Journal.

A. It is the official publication of the United Mine Workers organization, published by authority and under the supervision of the International Executive Board.

Q. It is a newspaper, is it not?

A. Yes, sir, a weekly newspaper.

Q. Intended to be published in the interest of the mining craft; is that right? A. Yes, sir.

Q. Similar to various other trade publications and labor union publications in the country? A. Yes, sir.

Q. I will ask you how many pages the Journal contains? When it was in this folio form it contained eight large folio pages, did it not, in its folio form? A. Yes, sir.

Q. And contained cartoons and news items, especially those of interest in the mining industry and to miners, editorials, contributions from members, and contributions from others who were not members that were deemed by the editor or manager to be of interest, and comic paragraphs, ad-
731 vertisements and other matters naturally pertaining to a newspaper; is that true or not? A. That is true.

Q. Now is it not a fact that the Journals of practically all the labor unions are required to be taken by the membership of the union, or do you know? Do you know anything about other labor papers?

A. In quite a number of labor organizations their publications that is their official Journals, are maintained on an assessed circulation.

Q. And that is on the membership, is it?

A. Yes, sir; each member pays an assessment.

Q. Do you require every member to be a subscriber or to pay for this Journal?

A. No, sir, it is purely voluntary.

Q. They can take it or not take it?

A. They can take it or not.

Q. The editor is appointed by the President of the International Union, is he not? A. Yes, sir.

Q. And he is changed from time to time; is that true?

A. Yes, sir.

Q. And he is paid a salary? A. Yes, sir.

Q. And the regular rate of subscription is fixed in the paper,—how much is it a year?

A. One dollar per year.

Q. And the contributions and articles and news items that appear in the Journal are those which are permitted to appear there by the management reposed in the editor; is that correct? A. By the editor, yes, sir.

Q. It is also used as I understand it, as a means whereby official letters, messages and documents signed by the officers may be given publication; is that true? A. Yes, sir.

732 Q. In those instances such communications or messages or proclamations or orders are properly signed and so appear in the paper? A. Yes, sir.

Q. Signed by the officers? A. Yes, sir.

Q. Outside of that the composition of the paper with reference to the contributions that are admitted, the news items that are printed, the cartoons that appear, the advertisements and subjects of that kind, are within the management of the paper reposed in the editor, as I have said? A. Yes, sir."

Mr. Warrum: Mr. Drinker, did you read the part, in the direct examination, referred to in the next question, question 183, about the provision embodied in the preamble of the earlier constitutions and so forth?

Mr. Drinker: No.

The Court: You may consider it read.

Mr. Warrum: Well, I will read this.

"Q. You have been asked about a provision that was embodied in the Preamble of the earlier Constitutions, and that is now in perhaps modified form contained in Article 2 of the

Constitution, which purports to set out the objects of the union especially with reference to the declaration that the union sought to secure by legislative enactment laws preventing the employment of Pinkerton detectives and armed guards and other armed forces except those which belong to the constabulary or militia of the state. Your union has always stood for the abolition by the legislature of such practices, has it not?

A. Yes, sir, it has been the belief and sentiment of the members of the United Mine Workers that the employ-
733 ment of privately armed forces is a menace to mining communities and against sound public policy; that the protection of citizens and property is the function of the state and the state governments and can not be delegated to private individuals.

Q. In some of the earlier constitutions, to which your attention was called by Mr. Drinker, references were made in the declaration in your Preamble to the custom that prevailed in Ohio, and he called your attention to the fact that that portion has been dropped out of the later forms. Has Ohio enacted legislation along the line stated in this declaration?

A. My best recollection is that the Ohio legislature enacted a—

Q. An anti-Pinkerton law?

A. Providing against the employment of Pinkertons.

Q. And other armed guards of that character, I think?

A. And other arms guards of that character.

Q. Were you a member of that legislature?

A. No, not of that legislature.

Q. You were a member of the Ohio legislature, were you not?

A. Yes, sir, I was a member of the Ohio Senate for two terms.

Q. What years? A. 1911 to 1914.

Q. Indiana has passed such legislation, has it not, in reference to the prohibition of the employment of Pinkertons and hired armed guards? A. Well, I can not recall.

Q. It has been done in several states, has it not?

A. That is my understanding.

Q. And your declaration seeks to have that brought about by legislature, does it not? A. Yes, sir.

734 Q. Now that is but one of the eleven objects indicated in the Preamble or section of the constitution which defines the objects and purposes of your union? A. Yes, sir.

Q. Now you have been asked to produce the accounts and statements of expenses and salaries filed by the Board members and organizers during the years 1914 and 1915. I will

ask you to state whether or not in response to that request you have brought in and turned over for examination and inspection by counsel for the plaintiffs three large [fil] boxes containing several thousand of these official statements properly indexed under the various names of the parties filing them?"

Mr. Drinker: Read my objection there, please.

"Mr. Drinker: Objected to on the ground that the counsel is inadvertently misstating the request, which was not to produce the reports, but merely certain specified ones, as will appear from the record.

Q. What is your answer, Mr. Green? A. Yes, sir.

Q. And after turning them over to them they have asked you about the accounts of two or three parties, among them Mr. Lawson. Do you know or can you tell from this account of Mr. Lawson's what he was doing in Trinidad at the time he was there, or why he charged railroad fare from Colorado to Indianapolis, or what his business was at any point where it was indicated that he was during this period by reason of the charge for hotel expenses and railroad fares. You yourself know nothing about his business during that time, do you?

A. No, I have no knowledge as to the nature of his business at these different places.

735 Q. He together with other organizers and Board members traveled to and fro over the country as their business required them to, did they not? A. Yes, sir.

Q. Did you know James Mullen? A. I know him, yes, sir.

Q. He is dead? A. Yes, sir.

Q. Where did he live during the period which is covered by these accounts that have been referred to?

A. My understanding was that his home was at Midland, Arkansas.

Q. And if he charged a livery bill for getting to Midland, Arkansas or getting away from Midland, and traveling to Fort Smith, or from Kansas City back to Midland; it does not indicate to you that he was engaged in any nefarious purpose, does it, in going to and from his home?

A. No, he was going to and from his home in Midland in discharging his duties as a member of the International Executive Board.

Q. He was a member of that Board?

[Q.] He was a member of the International Executive Board for District No. 21.

Q. That embraces Texas, Oklahoma and Arkansas?

A. Yes, sir.

Q. How many mines are there in that district? Approximately? A. I could not even tell you approximately.

Q. Are there a hundred?

A. I am of the opinion there is more than a hundred.

Q. Reference has been made to expenses in connection with trips and hotel bills or telephones to and from certain towns such as McAlester, Henryetta, Huntington, Colgate, Hartshorne, Clarksville, Montana,—those are all towns in that
736 district nearby which mines are located, are they not?

A. Yes, sir; they are all towns in District 21 near which mining operations are conducted and near which we had local unions of the United Mine Workers of America.

Q. Was it within the ordinary course of Mr. Mullen's business to travel from one place to another from time to time and visit these mines as questions would arise? A. Yes, sir.

Q. Calling for the exercise of his authority whatever he had; is that right? A. Yes, sir.

Q. Your attention has been called to the account of Mr. Moran who went from Des Moines to Clarksville, Arkansas and perhaps other places in Arkansas. There are mines at those places, are there not? A. Yes sir.

Q. There were mines at Clarksville, were there not?

A. Yes, sir.

Q. And when K. C. Adams left Trinidad and went to Fort Smith in June or July, 1914, as this account shows, do you know what he went for?

A. No, sir, I have no means of knowing.

Q. This suit began in September, 1914, did it not, Mr. Green? A. That is my recollection.

Q. You have been asked on direct examination with reference to the moving about of members of the Executive Board in that district since this suit was begun. Do you know whether they were down there looking after the interests of the union which had been sued or whether they were there on other business—can you tell from looking at these accounts?

A. I can not tell from looking at these accounts as to what their business was."

737 The Court: Do I understand that either of the questions that were admitted over objections, referred to a time after the beginning of the suit?

Mr. Warrum: Yes, sir, this suit was begun in September, 1914.

The Court: My understanding was that it only referred to transactions before the occurrences for which suit was brought.

Mr. Drinker: Some were after the beginning of the suit,—the expense accounts, our position being that an admission or

ratification by the defendants, may be after or before the suit is brought.

The Court: Yes, but it could only be admissible upon the ground, upon the theory that it is to lay the foundation upon which to base a recission or affirmation of the act. It could not be simply by implication, it would have to be after some definite showing.

Mr. Drinker: We are going to show the definite action by the different conventions of the United Mine Workers of America, after the bringing of the suit and after the acts which we contend amount to a ratification by them, and being an admission by the entire organization that these people had done this as their representatives.

The Court: And whatever has been introduced with reference to the officers traveling about performing their duties aofter the beginning of this suit has no connection with that?

Mr. Drinker: Entirely so. It is to bring notice to the organization.

The Court; Let the record show that the court reserves
738 the right to the defendants to make a showing hereafter in support of their objection.

Mr. Warrum: We did not want to interrupt, but we think as to all this matter of expense of traveling here and there, that it is objectionable. We have made no objection, but thought we would wait until we saw whether they made the proper connection, and if they do not do so we want to be heard on that proposition.

The Court: That will be the understanding.

739 (After recess.)

The Court: You are satisfied the jury all present, gentlemen?

Mr. Warrum: Yes, sir.

Mr. McDonough: Yes, sir.

Mr. Drinker (reading).

"Redirect Examination:

Questions by Mr. Henry S. Drinker, Jr.

Q. Mr. Green on looking over the files of the Journal which you produced on request, I notice that inadvertently the numbers from March 27, 1913, up to November 11, 1915 have not been produced; will you kindly get them?

A. They are over at Mr. Warrum's office. I will send a messenger for them.

Q. Mr. Green, in 1914 how many members of the United Mine Workers of America were bituminous miners in the United States, approximately?

A. I think between two hundred and fifty and three hundred thousand.

Q. You have testified in answer to Mr. Warrum's questions with reference to your Exhibits 2, 3, 4, and 5, the reports of the scale committee, the typewritten copies which you stated were copies of the reports of the scale committee for 1912 and 1914; the typewritten paper which you said was a copy of the invitation to the operators in the Central Competitive Field; and the typewritten copy which you said was a copy of the agreement of 1912—you stated that those papers, the originals, were sent to the printer. For what purpose were they sent to the printer?

A. For the purpose of having them printed in the pro-
740 ceedings of the convention or joint conference.

Q. And the printed proceedings that came back from the printer were these proceedings which you produced here in answer to my call, were they? A. They were.

Q. Now these agreements, this agreement of 1912 and similar agreements as to which you have testified and as contained in these printed proceedings, were the results, were they, of the deliberations in those joint conferences which you have spoken of?

A. You are referring now to the proceedings of the joint conferences of miners and operators?

Q. Yes, sir.

A. Yes, sir, they are the report of—they are the verbatum report of the arguments, discussions and propositions and what took place.

Q. I think you did not understand my question. [—]

Q. This agreement of 1912 and similar agreements as to which you have testified and as contained in these printed proceedings were the results, were they, of the deliberations in those joint conferences which you have spoken of?

A. My answer would be yes, with the addition that they were approved either by a referendum vote of the membership of the organization or a convention of the United Mine Workers of America.

Q. Mr. Green, these other contracts which you have produced in printed form and from which we offered in evidence

yesterday, were arrived at as the result of similar proceedings to those as to which you testified today? A. Yes, sir.

741 Q. Mr. Green, you have said in answer to Mr. Warrum's questions that these [expenses] accounts which you have produced yesterday do not indicate to you what the persons filing those accounts were doing at the time that they had filed them. That would be indicated, would it, by the reports of the different organizers or Executive Board members which you have said are in the custody of Mr. White or Mr. Hayes?

A. The question of Mr. Warrum's was whether or not I had knowledge from these reports as to what business called these representatives to the particular points reported on their reports. I could not tell from the reports as to what their business was, but the reports would indicate that they were in these particular places transacting business in connection with business matters pertaining to the organization.

Q. When you say reports you refer to expense accounts?

A. Yes, sir, I refer to expense accounts. What that particular business would be I am unable to tell.

Q. But my question now is what that business was would be more fully shown and indicated by the reports of those organizers and Board Members, which you stated yesterday were from time to time filed by those different individuals with Mr. Hayes, the Vice-President in charge of the organizers, or with Mr. White, the President; is that correct? A. Yes, sir."

Mr. Drinker: If the Court please, Mr. Warrum has asked me to read his re-cross examination.

(Reading.)

"Recross Examination

Questions by Mr. Henry Warrum:

Q. After the joint scale agreement is made in the Cen-
742 tral Competitive Field and approved by the convention or by a referendum vote of the union, then other district or joint district meetings are held throughout the United States; is that true? A. Yes, sir.

Q. Based upon or using the agreement decided on by the Competitive field and approved by the convention as the basis for the action of these various other districts that have their subsequent meetings; is that right? A. Yes, sir.

Q. Now the pamphlets that he has shown you yesterday and from which he has quoted or introduced notations referring to the "Check-off", were agreements made by the various districts or in the various districts by the representatives of

the miners of that district and the operators of that district; is that true? A. Yes, sir.

Q. And not made by the union at all? A. No, sir.

Q. They are essentially district agreements; is that correct? A. Yes, sir.

Q. Or joint district agreements?

A. They were district agreements—sub-district agreements.

Q. In some instances a sub-district would have its own special scale?

A. Most of the check-off clauses that he referred to yesterday were in sub-districts of Ohio, where—

Q. Now how would they meet?

A. (Continued.) —where the miners and operators of that particular sub-district would meet and make that agreement.

Q. Now how would they meet in the southwest field? How many districts or states would meet there for the pur-
743 pose of negotiating their scale?

A. The districts number 14, 21 and 25 of the Southwestern Districts meet in joint conference?

Q. What states would those districts include?

A. Kansas, Missouri, Oklahoma, Arkansas and Texas.

Q. They usually met at Kansas City and negotiate their scale agreement there?

A. Yes, sir. I think I must correct that. Texas meets separately.

Q. The operators and miners will meet separately although belonging to District number 21?

A. Yes, sir, although they belong to District 21 they have separate meetings and do not participate in the joint conferences held at Kansas City of the other districts.

Q. I will ask you in the last Southwestern conference if Oklahoma did not withdraw from the joint state agreement —that is the Southwestern conference—and insist on negotiating its own scale agreement with the operators of Oklahoma?

A. I am not thoroughly informed regarding that and I can not state from personal knowledge.

Q. Now these check-offs that have been testified to are check-off dues to the union?

A. They are dues for the union and check-weighman funds where they have sick and burial benefit funds.

Q. In some districts operators and miners agree on the check-off; that is right, is it? A. Yes, sir.

Q. And in some the operators and miners do not agree on the check-off and there is no check-off provided for by the contract; that is true, is it not?

744 A. That is true.

Q. That is true in the Pennsylvania anthracite field, is it not? A. Yes, sir.

Q. In some instances the agreement, as shown by the pamphlets introduced or used yesterday, the check-off is based upon a collective order of all the men at the mine and given to the mine owner authorizing him to make the check-off; is that true? A. Yes, sir.

Q. In other instances the agreement provides that the check-off shall only apply where each individual miner, separately and individually, files his written consent to the check-off is not that true? A. Yes, sir.

Q. And in some instances it is provided that the check-off may apply and if any miner refuses to file the necessary written consent that it shall not be required of such miner; is not that true? That is correct.

Q. And it is all a matter of negotiations between the various districts and sub-districts and the operators in those districts as they meet in their conference?

A. That is correct.

Q. Now other funds are checked off by the operators, are they not? Blacksmithing is checked off to the miners in some instance, is it not? A. Blacksmithing.

Q. And the powder and the tools are checked off?

A. Yes, sir.

Q. And store bills. A. Yes, sir, and mine supplies.

Q. And other mine supplies? A. Yes, sir.

745 Q. And store bills where they have company stores?

A. Yes, sir; and money for sick funds and burial funds established by the local unions and district organizations.

Mr. Drinker: The stenographer will also mark for identification as additional Exhibits under the notation applied to the United Mine Workers Journal, the three additional volumes of the United Mine Workers Journal produced by the witness Green in answer to the call, being Volumes 23, 24 and 27.

The Notary did as requested, marking the three volumes referred to respectively as Exhibit 31y, Exhibit 31z and Exhibit 31aa.

Whereupon the hour of twelve o'clock having arrived the further taking of these depositions was adjourned until one o'clock and thirty minutes p. m.

(Signed) WM. GREEN."

Mr. Drinker: If the Court please, we offer the deposition of JOHN P. WHITE, taken on the same day, at the afternoon session, August 21st, before the same Notary and under the same notice.

(Reading).

"Examination in Chief.

Questions by Henry S. Drinker, Jr. Esq.:

Q. Your full name is John P. White? A. Yes, sir.
Q. And you are now president of the United Mine Workers of America? A. Yes, sir.
Q. How long have you occupied that position?
A. Six years and a half.
Q. Since the first of April, 1911? A. Yes, sir.
Q. And what position did you occupy before that?
746 A. President of the Iowa miners.
Q. You did not occupy any position before that in the United Mine Workers for the year before that—from 1910 to 1911? A. Yes, sir.
Q. What position? A. President of the Iowa miners.
Q. You were vice-president of the United Mine Workers of America to April, first, 1910, were you not?
A. I was immediately—up to the year 1910 I was president of the Iowa Mine Workers, the Iowa branch organization.
Q. During what period were you the vice-president of the United Mine Workers? A. 1908-1909.
Q. And did you occupy any position prior to that?
A. Yes, sir.
Q. What position?
A. President of the Iowa Miners.
Q. For how long?
A. I was president and secretary-treasurer for about twelve years.
Q. So you have occupied an office in the United Mine Workers since 1896?
A. Yes, sir; I have been there since about twenty years.
Q. Now in the course of your position as president of the United Mine Workers of America you have general authority over the entire organizations, have you not?

A. In my present position, yes, sir.
Q. Over the entire organization and all the officers?
A. Subject to the laws of the organization and the authority of the International Executive Board.
Q. Have you custody of any of the books and paper of the organization?
747 A. No; only my own correspondence.
Q. Who has custody of the books and papers that you have not authority over?
A. The secretary of the national organization—the copies of accounts and books.
Q. Is he subject to your direction?
A. Yes; within certain limits.
Q. Are the books and papers in his custody subject to your direction?
A. No. I have free access to them, and to any information I want out of them.
Q. Are the books and papers in the vice president's custody subject to your direction?
A. No; only if I want any information from them I can always go to him and get it.
Q. Haven't you power—
A. I have general supervision over the affairs of the United Mine Workers within the laws prescribed by the constitution.
Q. Have you power to go in the vice president's office and take out any papers there belonging to the United Mine Workers? A. I have never exercised such powers.
Q. Well, have you power to do that?
A. No, I may have it, but I have never exercised it.
Q. Well, you have general supervision over the vice-president in all his acitivities?
A. He is under my direction.
Q. He is subject to your direction and supervision is all his activities, is he not? A. Yes, sir.
748 Q. Mr. White, I am going to now ask you certain questions which relate—except as I will specify—to the period between the time when you became president of the organization in April, 1911, down to the date of the bringing of this suit in September, 1914, and these questions will all warrant a yes or no answer, and I am going to ask you, if you will be kind enough, to give such answers. Mr. White, during the period I have specified, did you ever cause to be published in the United Mine Worker's Journal any report or notice of the suspension or removal, or other discipline, of any officer or employee or member of the

United Mine Workers of America on account of violence or injury to life or property in connection with labor disputes?

A. No, sir.

Q. Was there ever any such publication during your administration made?

A. I have no knowledge of it. If you can make your question more specific—you will have to be more specific to get any direct answer out of me. You have got to define what you mean by those things. You are taking in lots of territory. If you are specific I may be able to enlighten you on the points.

Q. Do you know of such publication having been made in the United Mine Workers' Journal prior to your administration as president? A. I do not know of any.

Q. Did you ever cause to be published in the United Mine Workers' Journal any report or notice of the discipline of any district or local branch of the United Mine Workers of America on account of such violence or injury to life or property? A. No, sir.

Q. Was there [every] any such publication during your administration?

749 A. I do not know of any.

Q. Do you know of any such publication at any time prior to your administration? A. I could not say.

Q. Did you ever suspend or remove or otherwise discipline any International officer or employee on account of violence or injury to life or property in connection with labor disputes? A. On account of violence?

Q. Or injury to life or property? A. No, sir.

Q. Did you ever take any such action as to any district or local officer on such account? A. No, sir.

Q. Did you ever take any such action against any member of the Union on such account?

A. Never had any occasion to. Our members do not commit violence.

Q. You never did take any such action?

A. Not to my knowledge.

Q. Did you ever take any steps towards the forfeiture of the charter, or other discipline, of any district or local branch of the Union on such account? A. No, sir.

Q. Do you know of any disciplinary action having been taken at any time by any officer of the International Union, against any International officer or employee or member of the union, or against any district or local officer or employee, or against any district or local branch, on account of violence or injury to life or property in labor disputes?

A. No, sir.

Q. During your administration was there ever
750 brought before the International Executive Board any appeal from any discipline of any district or local officer or employee, or member or of any local branch, on account of violence or injury to life or property in the course of labor disputes?

A. No, sir, not to my knowledge.

Q. Do you know of any such appeal having come before the International Executive Board ever at any time prior to your administration? A. I do not.

Q. Did you ever publish or give publicity to any notice of any kind to be circulated amongst the members of the United Mine Workers of America that such members, or the officers, or the local or district branches, would be subjected to discipline by the Union and by the officers of the Union if they participated in violence or in the injury to property or persons in connection with labor disputes, such publication having been in writing?

A. I gave a notice warning our people against being intimidated by the coal operators—being instigated by the coal operators to commit violent acts and warning them to keep within the law, in 1908, in Birmingham, Alabama. They were being goaded by gunmen, and brutalized by gunmen paid by the coal company, to get them to commit acts of violence; and I warned them to not commit any overt act, but rather to subject themselves to all forms of brutality, submit to all forms of brutality rather than break the law.

Q. Is that in writing? A. Yes, sir, I think so.

Q. Can you kindly produce it?

A. I think I could—the substance of it, the essence of it.

Q. I know you mean to answer the question, but I
751 do not think you did, exactly, and I will ask the stenographer to read it to you again. I would like to have a direct answer.

The Notary repeated the question."

Mr. Drinker: I will read question No. 42 again.

(Q. Did you ever publish or give publicity to any notice of any kind to be circulated amongst the members of the United Mine Workers of America that such members, or the officers, or the local or district branches, would be subjected to discipline by the Union and by the officers of the Union if they participated in violence or in the injury to property or persons in connection with labor disputes, such publication having been in writing.)

"A. I do not know of any other occasion that I issued any notice on the subject, other than the one I mentioned, and I was not president of the organization at the time.

Q. Mr. White, can you fix approximately the date of that notice to which you refer?

A. No. It was in the year 1908, in the summer months. I was vice-president of the organization. It was issued in the Birmingham strike, a public notice as to our conduct during the strike, is all. I will get it for you later on.

Q. Have you a copy of a letter, or have you a letter in your files, written to you by the Secretary of Labor, William B. Wilson, during the summer or fall of the year 1914, in connection with the strike at the Bache-Denman mines, the subject matter of this litigation?

A. Well, I don't know, I am sure. I may have.

Q. Will you please look in your files and see if you have that, and have it looked up?

A. You will have to be more specific as to what time to look for.

752 Q. A letter written by Secretary of Labor William B. Wilson to you as president of the Union, in connection with this labor dispute at Prairie Creek and vicinity, prior to the time when the Federal Troops were sent down there—it was during the months of August, September or October, 1914.

A. If there happened to be such a letter—

Q. Or it may be July. Will you kindly look for it?

A. You will have to direct your inquiry to some specific time. Our files are voluminous, and I don't know just what period you want.

Q. Are not your files indexed under individual names?

A. No, sir.

Q. Just by periods?

A. We fix them by periods. They pass out of the files and pass back into the filing room.

Q. Could you not turn to the letters written you by—

A. If I have the dates I can. Give me the date.

Q. The date, as I have given it to you, is as near as I can give it. It is, I think, in September or October, or possibly August or July, 1914; but if you will look in September or October I think it will be there. Do you remember receiving such a letter?

A. I am in constant correspondence with the Department of Labor about all matters pertaining to these things. We very frequently correspond on matters. I don't know. I cannot remember now.

Q. Do you remember receiving a letter from Secretary of Labor William B. Wilson prior to the time when the Federal troops were sent to Arkansas in connection with that matter?

A. No. I cannot say definitely whether I do or not. I do not have any specific recollection of it. If the letter
753 came it is within our files.

Q. Will you kindly produce that if you can find it, and a copy of your reply? A. Yes, sir.

Q. Did you write a letter to President Woodrow Wilson or Secretary of Labor William B. Wilson during the present spring in connection with the pardon of Pete Stewart?

A. I am inclined to think I did. I am not sure.

Q. Will you kindly produce a copy of that letter?

A. I don't think I have got a copy.

Q. Will you kindly look and see if you have it? A. Yes.

Q. Have you in your files any reports or copies of reports of the various officers, presidents, and secretary-treasurers, in the various districts of the United Mine Workers of America, those reports having been made to districts?

A. Only except as they appear in their printed proceedings, and made public.

Q. Have you copies of the printed, the published proceedings of the different districts?

A. Some I may have. They usually send their proceedings in. They are public property. I don't know whether I have them all or not—it may be. They usually find their way to the statistician's room.

Q. Have you any copies of correspondence and original correspondence between your office and the officers of District No. 21 to or from Peter Stewart or Mr. Holt, secretary-treasurer of District No. 21, in 1914; or James Mullen, between April 1st, 1914, and January 1st, 1915, in your files?

A. That I cannot say, I am not sure.

754 Q. Will you please have your files examined and produce the letters, such letters, [nif] you have them?

A. You will have to be specific as to what letters you want.

Q. I want all the letters that you have written to those persons or received from them.

A. Having bearing on the case you are examining me on?

Q. On all subjects, during that period."

Mr. Drinker: There are three sentences here by Mr. Warrum, and I will go on and read them, shall I?

Mr. Warum: Yes, sir.

Mr. Drinker (reading):

"Q. Let me ask you—District No. 21 [comprieses] three states, does it not? A. Yes, sir.

Q. Texas, Oklahoma and Arkansas? A. Yes, sir.

Q. And how many mines are there in the district?

A. Oh, there is somewhere about thirteen thousand miners I should judge—twelve or thirteen thousand, I don't know exactly, the membership fluctuates. There are about three thousand in Texas, and the remaining part of the membership is in Arkansas and Oklahoma.

By Mr. Drinker:

Q. I will narrow that request to correspondence relating in any way to the Bache-Denman mines, or to the controversy at those mines which is the subject matter of the present litigation. Will you look and see if you have any letters?

A. If you name what you want me to get.

Q. I want the letters to and from these persons, Pete Stewart, Mr. Holt, secretary-treasurer of District No. 21, and James Mullen.

755 A. I don't know that I have got any letters on the subject matter you refer to.

Q. I know you don't, but if Mr. Grant objects to my defining what the letters referred to, why, then, I will have to ask you to bring all the letters; but for your convenience I have designated the subject matter of the letters as this controversy which is the subject matter of this suit.

Q. Are you willing to make that investigation and produce such letters as I have asked for?

A. Well, if you direct my attention to what you want I am. I am willing to do what I can to find out if there is any such letters, but I would like to know what I am directed to do.

Q. I asked you to produce—I will re-state my request so that we will have it concisely; will you please examine your files and ascertain if you have, and produce if you have them, the originals of all letters to you and copies of letters from you written between April 1st, 1914, and January 1st, 1915, from and to Peter Stewart, president then of District No. 21, United Mine Workers of America, Fred Holt, secretary-treasurer of District No. 21, United Mine Workers of America, and James Mullen, executive board member for District No. 21, United Mine Workers of America? Will you produce those papers, Mr. White? Will you examine your files?

A. You will have to be more specific. I am not going to examine my files unless I am directed specifically. If there

is anything in my files that you have specific reference to I will be very glad to furnish them if they are in my possession.

Q. I have made the question as specific as I can, and have narrowed it down to the letters between you as president of the United Mine Workers and the officers of District
756 No. 21, in which this controversy took place, during the period of the most strenuous days of that controversy, such being the immediate subject matter of this litigation; and I understand that—under the advice of your counsel, or direction of your counsel—you decline to search your letter files for any such papers, or to produce them in these depositions—is that correct?

A. No, sir, I do not decline, that is, if I am directed either by the court or called on to furnish any specific letter that may be in my possession—I am willing to produce it. I have nothing to conceal.

Q. Now during this period as to which you have declined, except under order of court, to search for or produce any letters, do you know whether there were any letters to and from you to these gentlemen in reference to this matter?

A. I haven't any knowledge of it.

Q. You do not recollect of any correspondence between you and Peter Stewart?

A. Not a bit. Not of any specific nature.

Q. You do not recollect that you ever wrote or received from Peter Stewart, during that period, any letter whatever relative to this controversy?

A. Well, I may have received letters from him in the capacity of president, and I may not know just particularly the contents of them. I haven't any specific recollection of the Bache-Denman controversy. I figured very little in the Bache-Denman contest.

Q. Have you no recollection whatever that you had, during that period, any correspondence with Peter Stewart relative to that controversy?

A. I may have had some.

757 Q. Well, do you recollect that you did have, or that you did not have?

A. Well, I haven't any specific recollection on the particular point in question.

Q. Do you recollect that you had any correspondence with him relative to that controversy during that period?

A. Well, I may have had some, I cannot say in particular. I would not say that I did or that I did not. I may have had some.

Q. What is your recollection, that you did or did not?

A. Well, I may have had some. I would not take the position that I did not have any.

Q. What is your recollection in regard to correspondence with Fred Holt during that period relative to that controversy?

A. Well, I do not think I had but very little correspondence with Fred Holt. I think that Fred Holt retired as secretary-treasurer of the Oklahoma miners in 1914, if I [recolleft] right, and also Mr. Stewart.

Q. What is your recollection relative to the correspondence with James Mullen in reference to that matter during that period? Do you recollect that you had correspondence with him or that you did not?

A. I don't think that Mr. Mullen and I had any correspondence on that. I may have had some, but I don't know of any; haven't any specific recollection of having any particular correspondence with Mr. Mullen on that matter.

Q. Now, do you still decline to search for and produce any copies of correspondence with Peter Stewart or Fred Holt or James Mullen during that period with reference to that controversy. Do you still decline to do so, Mr. White?

758 A. Yes, under the advice of counsel I refuse to answer any further, thinking that I have made my position sufficiently clear on the questions as they were propounded.

Q. Do you decline to answer?

A. I decline to answer on the grounds stated.

Q. I understand you refuse to answer that question.

A. On the advice of counsel, believing that I have made my position sufficiently clear, that I would be willing to furnish any information that I may have on proper direction of the court, or any specific reference to any particular correspondence that may be in my files as to any time, date or subject [mstter.]

Q. For the period for which you have declined to produce this correspondence, or search for it, is your correspondence arranged according to individuals, or according to periods?

Will you answer the question?

A. My correspondence is arranged in periods, filed away, as I said, by districts, alphabetically arranged and covering periods.

Q. Alphabetically arranged according to the names of the persons? A. Yes.

Q. To and from whom the correspondence relates?

A. Yes.

Q. During this period—then, as I understand it, your correspondence is arranged first according to district; secondly, according to periods; and thirdly according to the names of the persons to and from whom the correspondence is directed?

A. In those districts, yes, sir.

Q. Could you state whether any one period into which your filing system is so divided covers the period from April 1st, 1914, to January 1st, 1915?

A. I could not say as to that without examining my files.

Q. Could you ascertain that and state it on the rec-
759 ord, so that we will know it?

A. Well, that would depend on the volume when we file them, when we need to file them away.

Q. I will ask the question again: In connection with the correspondence to and from persons or officers or members in District No. 21, during what periods are the subdivisions of your correspondence to which you have referred divided, between January 1st, 1914 and January 1st, 1916?

A. I cannot say without an examination.

Q. Your filing system that you have described covered the year 1914, did it?

A. Well, I don't know. It may take a part of it in, or part of the next one, or all of it, I don't know.

Q. You didn't get my thought. The system covers 1914?

A. I hardly get your question.

Q. During the year 1914 your filing system—for the year 1914 your filing system is arranged in accordance with the system which you have described?

A. No difference between 1914 and any other year.

Q. Will you please ascertain by an inspection of your files into what periods, as to District No. 21, your filing system is sub-divided, covering the years 1914 and 1915?

Will you ascertain that?

A. I will give you that information if I am capable of doing it.

Q. Have you in your files, or subject to your direction, any reports of International organizers for the year 1914, or any part thereof?

A. Organizers don't report to me.

Q. To whom do they report?

A. The vice-president. They work under his jurisdiction.

760 Q. Are those reports subject to your authority?

A. No, sir; I haven't a thing to do with them.

Q. Didn't I understand you to say that all the papers in the vice-president's office were subject to your authority as president? A. They may be.

Q. The chief executive head of this organization?

A. It may be, but I say I have never gone beyond my office to request anything of that character. The organizers are working under the jurisdiction of the vice president who is general organizer of the organization, and he directs them in all their duties, and they report to him and not to me.

Q. Do you mean you have no power to get access to those reports?

A. Oh, I would have if I had occasion to. I think the vice president would give me anything that I wanted.

Q. You are not the custodian of them? A. No, sir.

Q. Where is the vice president at this time?

A. In Colorado.

Q. That is Frank J. Hayes? A. Yes, sir.

Q. Where are these reports of organizers filed—in this office? A. I suppose they are filed in his office.

Q. And his office is in this building, on this floor where we are taking these depositions? A. Yes, sir.

Q. Mr. White, have you in your possession or under your control any transcript of the minutes or proceedings of the International Executive Board of United Mine Workers
761 of America for the year 1914?

A. Yes, sir, I suppose I have the minutes of the Board meetings the same as the secretary. We both get a copy of them.

Q. You have a copy of the minutes for 1914? A. Yes, sir.

Q. In this building? A. Yes.

Q. Will you please produce the minutes of all the meetings of the International Executive Board during the year 1914? Will you produce those, Mr. White?

A. I have no authority, I cannot produce those without the consent of the International Executive Board. They are the property of the Board.

Q. And that is the reason for which you decline to produce them? A. That is one of the reasons, yes.

Q. Do you care to give any other reasons?

A. No, not at the present time.

Q. Do you know what was the first meeting of the International Executive Board held after April 4th, 1914?

A. After April 4th, 1914? I cannot say now.

Q. Will you ascertain that date, if you please? Well, will you furnish that date, Mr. White?

A. Well, if you will satisfy me as to the reason I should do so and the reason is a valid one, I would not object to furnishing it to you.

Q. I wish that information in connection with the case in which we are now taking depositions.

A. Well, I will give you the date.

Q. And will you give me the date of the next meeting after that?

762 I ask that date for the same reasons. Will you furnish me with that date?

A. Well, if it becomes absolutely necessary I would.

Q. I do not understand you, sir, whether you mean that as a refusal to furnish it without an order of court, or not?

Mr. Drinker: This is marked a question, but I understand it is an answer. Perhaps I may agree with counsel upon it.

The Court: It shows what it is, just read it as it is.

Mr. Drinker (reading):

"Q. I said if there is any valid reason, in the first place, why you should have those dates I would be very glad—if that reason is stated as having any bearing on my examination as a witness here—I would be very glad to furnish the information.

Q. I wish to know, sir, in connection with this case the dates of all the Board meetings of the International Executive Board held between April 1st, 1914, and January 1st, 1915, for the purposes of this litigation. Will you furnish me with those dates?

Will you furnish me with those dates, Mr. White?

A. No, I believe not.

Q. Do you care to state why?

A. Well, the minutes of the meetings of the Executive Board, I am only the custodian of them and cannot impart them without the authority of the International Executive Board. I have no objection, so far as I am concerned, to furnishing them, if the Board would consent to it.

Q. When is the next meeting of the International Executive Board?

A. I do not know. They are only convened by the au-

763 thority of the president when occasion requires.

Q. And you have no plans for any immediate meeting in the near future?

A. I haven't any specific plans, no, sir.

Q. Now, how often did the Board meet during the year 1914, as a general proposition?

A. Well, I could not say just exactly, off hand, without specific information. The Board sometimes meets every few months and sometimes only a couple of times a year, just as there is occasion for them or necessity for them to pass upon appeals, grievances or other matters pertaining to the organization.

Q. Do you remember how many times the Board met during 1914? A. No, sir, I could not say off hand.

Q. You could not say whether it was two or ten times?

A. No sir.

Q. In what form are the minutes of the International Executive Board kept? Are they type-written or printed?

A. The minutes are not printed.

Q. Are they typewritten? A. Yes, sir.

Q. Are they signed by any one? A. No.

Q. Are they in loose leaf form, or are they bound—in bound form? A. They are put up in loose leaf.

Q. Loose leaf form? A. Yes, sir.

Q. Are the pages numbered consecutively?

A. Yes, sir ,they are paged.

Q. Do the numbers begin consecutively by any period, or are they numbered consecutively from the beginning of the organization? A. That I could not say.

764 Q. Who was the stenographer who type-wrote those minutes? Miss East?

A. Mrs. East takes them when she is here in the city. Sometimes other people from her office takes them.

Q. Either she [tames] them, or some one in her office?

A. She gets us a stenographer when she cannot take them.

Q. They were either taken by her or under her direction or supervision, were they?

A. Yes; we had a shorthand minute of them.

Q. Are all the minutes of the proceedings of the Executive Board transcribed in this way?

Q. Not verbatim. Just the main principal [disposition] of the grievances.

Q. Who designates what portion of them are to be transcribed and what portion is not to be?

A. Well, that is usually dependent on whether a litigant here wants a copy of his argument before the Board. Sometimes we do that; if the case is going to be appealed to the convention we sometimes instruct—either the secretary or myself, upon request—to have a copy made of their argument at the time they may be before the Board.

Q. How many copies are made?

A. Just one, as I recall.

Q. One for you and one for Mr. Green?

A. Mr. Green is secretary of the Board, and he is the custodian. It is just made for my convenience.

Q. But you have a complete file from April 1st, 1911, of all the minutes that have been transcribed in this kind of a minute book? A. Yes, sir.

765 Q. And Mr. Green has another one, has he?

A. Yes, sir.

Q. And they are in this office in this Merchants Bank Building, in Indianapolis? A. Yes, sir.

Q. Now Mr. White, you intimated that you would ascertain for me the periods during 1914 into which your correspondence was subdivided. I think if you will kindly do that—

A. Yes, I will give you the information on that point.

Q. Because I am now through with your examination here except for ascertaining the information that you have indicated that you would get for me.

A. You wanted the information from April first?

Q. During 1914. A. How they were arranged?

Q. How they were sub-divided? Into what periods?

A. In what particular district, or just the general form?

Q. District No. 21. A. Twenty-one.

Q. And also the dates of the meetings of the Executive Board from April 1st, 1914, to January 1st 1915.

Mr. Warrum: He has told you he would not give you dates.

The Witness: Yes, I think I said I would not give the dates without consent of the Board. I will ascertain the date on the correspondence.

After referring to data Mr. White resumed his answer as follows:

A. (Continued.) On the matter that you asked me the question about Pete Stewart, if I sent letters for Pete Stewart's pardon, I was in error in what I said about that. It

766 was a letter that I wrote to President Wilson thanking him that I was thinking about, I think. I think the attorneys, or some one down there, notified us that the President had granted a pardon, and I came in and if I recollect right I wrote the President this letter (producing).

Q. May I look at it. I didn't ask for any letter except the one—

A. I may have answered in the affirmative; I may have led you to believe that I wrote such a letter, but all I did was to write a letter thanking the President for granting the pardon.

Q. May I see that copy?

A. Yes, sir (handing copy of letter to Mr. Drinker).

Q. Do you care to read that letter?

A. Yes, sir, I will read it.
Q. Yes, read it, please.
A. (Reading): "File 5 Misc.

March
Three
1917.

Hon. Woodrow Wilson,
President of the United States of America,
Washington, D. C.

Your Excellency:

I have just been informed of your prompt action in extending a pardon to Mr. Peter Stewart and others who had been sentenced to four months imprisonment by Judge Youmans of Arkansas. I take this means to express our sincere appreciation of the favorable action you have taken.

Very respectfully,

PRESIDENT UNITED MINE
WORKERS OF AMERICA."

The file that you asked me to examine the record of, the files of District No. 21, I find that the record of the files of
767 District No. 21, along with several other districts, are placed in box files and date from April first to April first for the year.

Q. Year by year?

A. And you asked me if I wrote a letter to the Secretary of Labor, Hon. William B. Wilson, and I answered in the affirmative. I wrote to Mr. Wilson acknowledging the receipt of a copy of a letter from Mr. Franklin Bache, Receiver of the Bache-Denman Coal Company.

Q. During what period?

A. I am going to give you the date. I will read you the letter.

Q. No, sir; I asked you the date, first.

A. November 4th, 1914. You asked me to produce this letter.

A. Yes, sir, I asked you to produce it. Will you hand it to me now, I ask you? A. To retain?

Q. No, sir; just to look at. Is this letter in answer to one which you received? A. Yes, sir.

Q. Well, will you hand me that? I ask you whether you intend to hand me this letter?

(The witness passed the letter to Mr. Drinker.)

Q. Mr. White, will you kindly designate by dates and by persons to whom and from whom letters are written, those letters which you have produced in answer to my request to produce letters to and from you and the Secretary of Labor, William B. Wilson, in the fall of 1914, with referenec to this controversy?

A. Well, I acknowledged the receipt of that letter, as I have just stated, on November 4th, 1914, and the other
768 letter to President Wilson was March 3rd.

Q. Will you designate the date of the letter from Secretary Wilson to you in answer to which you wrote the letter of November 4th, which you have handed me?

A. Well, I cannot say the dates without examining the letter.

Q. The letter is there on the table before you.

A. The letter I got from Mr. Wilson is on November 2nd, and my reply shows that I acknowledged it on November 4th.

Q. What year? A. 1914.

Q. Did you have any further correspondence with Secretary of Labor Wilson in that connection, or do those two letters comprise the entire correspondence?

A. Well, I do not recall that I had further correspondence with Mr. Wilson.

Q. You had certain other letters in here with you which Mr. Grant has now. Do I understand that those have no relation to this controversy or to the call I made?

A. I understand it has no relation to the call. You asked me did I receive a letter from W. B. Wilson calling my attention to certain matters now in controversy, and I answered and told you that I thought probably I did, but I would ascertain for you, and I have done so.

Q. Did the letter of Secretary of Labor Wilson dated November 2nd, 1914, contain any enclosure?

A. I am inclined to think it did.

Q. Have you got that there? A. I think so.

Q. Well, will you produce and hand to me for inspection the letter of November 2nd, 1914, from Secretary Wil-
769 son to you, together with the enclosure?

Mr. Warrum: Let me ask the witness a few preliminary questions."

Mr. Drinker: Shall I read those questions, Mr. Warrum?

Mr. Warrum: Yes, sir.

Mr. Drinker (reading):

"Q. Was the enclosure that you received in the letter from W. B. Wilson a copy of a letter purporting to have been

written by Franklin Bache, of the Bache-Denman Coal Company, to W. B. Wilson, undertaking to state his side of the controversy in litigation in this suit, in this litigation that was then pending, written by Franklin Bache either to W. B. Wilson or the President of the United States?

A. I am inclined to think it was. I have not consulted the files since I wrote the reply.

Q. And that enclosure was simply the statement that Mr. Bacche made, and which you decline to introduce as a part of your testimony—is that right? A. Yes, sir.

Q. And Mr. Wilson's letter to you was predicated upon the statements made by Mr. Bache in his letter?

A. Yes, sir.

Q. To which you responded in the letter which you have produced and offered to read? A. He has got it.

Q. Of November 4th, 1914? A. Yes, sir.

By Mr. Drinker:

Q. And is the enclosure which you state was contained in Secretary Wilson's letter to you of November 2nd here, physically, in the room now?

770 A. I am inclined to think it is.

Q. Don't you know that it is?

A. Well, I have not examined it.

Q. Well, you brought it here as being that paper, did you not?

A. When the correspondence came in it was all intact there, and my reply to it. I suppose it is there; I have not examined it. I was only concerned about my reply to Mr. Wilson which you asked me about, asked my answer to.

Q. Will you kindly examine that enclosure now, and state whether it is the enclosure which was contained in Secretary Wilson's letter to you of November 2nd?

A. This is the document that accompanied the communication from W. B. Wilson, and which I answered on November 4th. It is a letter directed to the President by Mr. Bache, and a copy of it was forwarded to Mr. W. B. Wilson and communicated to me, which I answered on November 4th, 1914.

Q. Now, will you hand me that letter of Secretary Wilson to you, together with the enclosure, for my inspection, pursuant to the call? A. No.

Q. You will not? A. No, sir.

Mr. Drinker: I offer in evidence the letter from the Secretary of Labor, William B. Wilson, to Mr. John P. White, together with the enclosure which he has stated is in his hand at this time, pursuant to the call, together with the copy of his reply to Secretary of Labor Wilson dated November 4th,

1914, which he also has in his hand, and ask the stenographer to mark them for identification and place them in the record; and if the parties are unwilling to have these original
771 letters attached to the deposition, the stenographer will copy them into the record.

The Witness: There (handing same to the stenographer) is the letter to Mr. Wilson, to Mr. W. B. Wilson, acknowledging the receipt of his communication to me which I answered on November 4th, 1914.

I say I have offered now in evidence my reply to W. B. Wilson of November 4th, 1914.

The said letter produced by the witness being in words and figures following, to-wit:

"File 5—Misc.

Nov. 4 1914.

"Hon. W. B. Wilson,
Secretary of Labor,
Washington, D. C.

Dear Sir:

I have your favor of November 2nd containing copy of letter from Mr. Franklin Bache, Receiver of the Bache-Denman Coal Company, Fort Smith, Arkansas.

Replying thereto I desire to say that, as you might know, I shall always be found exercising my influence against such conditions as are alleged in this letter. Personally I know nothing of the situation complained of, but as president of the Organization will be glad to co-operate in any way I can to prevent their recurrence.

Yours very truly,

"DCH." President."

Q. Do you refuse to hand to the stenographer the letter of Secretary Wilson dated November 2nd, together with the enclosure, to which letter you replied by your letter of
772 November 4th, which you handed the stenographer and offered in evidence?

A. I refuse at this time to offer the letter of W. B. Wilson to me on Novemver 2nd containing copy of the letter written to the President of the United States under date of October 21st from Franklin Bache.

Q. Secretary Wilson's letter of November 2nd, to which you have referred, is complete letter itself, is it not, and Mr.

Bache's letter accompanying it is a separate letter, is it not?

A. Yes, sir; I so stated in my answer.

Q. I ask you now to give the stenographer for identification and inclusion in this deposition the letter of Secretary Wilson to you of November 2nd, with the enclosure that that letter states was included in it; and you refuse to do so?

Are you willing to produce and hand to the stenographer Secretary Wilson's letter of November 2nd 1914, to you, without the enclosure, being a copy of Mr. Bache's letter to the president.

A. I am not, at this time, willing to do so.

Now in regard to the circular issued in the Birmingham strike, you asked me to produce that. I have it here in my report in the proceedings of the 1909 Convention, which have been marked by the Notary Exhibit No. 29 F. I produce it as a correct copy of the proclamation I issued at that time. I offer it for identification and will read it as a correct copy of the circular I issued. It is in the volume of convention proceedings marked plaintiffs' Exhibit 29 F, beginning on page 82 and continuing to near the bottom of page 84, and is as follows:

Mr. Warrum: Just mark on the book indicating where it begins and where it ends.

773 The Witness: I have done so.

(Signed) JOHN P. WHITE."

Mr. Drinker: That circular follows, if Mr. Warrum cares to read it he can do so, but we don't care to offer it as part of our examination.

The Court: Proceed.

Mr. Drinker: That is the end of the deposition.

The Court: Very Well, you may read it if you desire.

774 Mr. Warrum (reading):

"The circular and introductory paragraph included between the marks made by the witness on pages 82 and 84 of the convention proceedings being as follows, to-wit:

"I felt it absolutely necessary to advice our members and the public of the strike and on August 19 I caused the following circular to be issued:

"Birmingham, Ala., Aug. 19, 1908.

"To the Officers and Members of Local Unions, United Mine Workers of District No. 20, Greeting:

"We take this means to inform you of the condition of our strike at this time for the express purpose of keeping you in touch with the situation, finding it impossible to meet with you personally as often as we would like to do.

"The condition of the strike at this time is very good and every day new members are being added and new local unions organized, and at this time almost the entire working force of the mines is organized.

"Our filed workers are actively engaged in meeting with the local unions an addressing meetings throughout the district wherever it is possible to do so. At no time in the history of Alabama mining has a strike ever manifested its effectiveness so completely as at present. The amount of coal being produced is of little consequences when taking into consideration the vast importance of this great industry in the State of Alabama. Your officers are well satisfied with thsi phase of the strike situation, and we advise that our local unions and members everywhere use their moral influence and cooperation with the field workers and officers in charge of this strike in every honorable and legal way that
775 will extend its influence to those not yet organized. Nearly 18,000 men are now members of the United Mine Workers in District 20 and are standing loyally in the cause.

"Everything seems to indicate that sccess will eventually and speedily crown your noble efforts, and it is safe to assume that no strike of such magnitude and importance will be of long duration, when we consider its effect upon the business and industry of the country.

"International Vice-President John P. White has taken charge of the strike situation and everything is being done to vigorously extend, by all honorable and lawful means, the influence of our strike. In this he is supported by the full strength of the International Organization.

"In the conduct of a strike of such magnitude many exacting duties and vast responsibilities are imposed upon your officers, and they are all working diligently and faithfully to meet every requirement; Yet we find it necessary to call your attention to the fact that local unions must refrain from having individual members of their organization continu-

ally coming to the district office with their minor complaints, which could be readily and easily adjusted through our field workers or by letter or telephone. If our local unions and members are to receive the best service possible from those in charge, it is absolutely necessary that this rule be adhered to; therefore in the future all local unions are requested to report their grievances officially through their proper officers, where it is possible for them to do so, and should advice all their members to remain in their respective localities and use their moral and righteous influence to extend and perfect by lawful methods the work in their own communities.

776 "Local unions are hereby notified not to contract any bills placing the International Organization under financial obligation without approval from headquarters.

"Members will not be permitted to transfer their membership from one locality to another during the strike or until further ordered, except in rare cases, when it may be done when it will be the means of uniting some man with his wife and family. Otherwise the practice of transfer must cease, for if it were tolerated the strike would lose its effectiveness.

Observe The Law.

"For the past several days we have been passing through a crisis. Public sentiment has been running very high; the tone of the press inflammatory, creating wild excitement; denunciation of our cause has been heard on every hand; but now that calm has been generally restored and the excitement subsided we take this opportunity to admonish and urge you to observe, as we know you will, every feature of the law and refrain from all kinds of lawlessness and violence. We are not unmindful of the fact that in strike times emissaries of our opponent mingle amongst you for the purpose of exciting you to commit some overt act or to resort to violence, which can never be counseled or tolerated by our organization or the humblest member in its ranks. Violence and disorder is our worst enemy; peace and tranquillity our best friend. We propose to conduct this strike on the highest plane possible. We ask, and hope we may receive, the endorsement of the public spirited citizens and lovers of fair play and justice, and in return we pledge ourselves to lend our influence and co-operation to the side of righteousness and the upholding of the law. Therefore, each and every
777 one of you are expressly cautioned to lend your active moral influence and support to this principle, and thus

demonstrate that we have no sympathy with those who resort to violence and disorder. We realize that you are subjected to many indignities at divers times and places and are often provoked; but remember it is better to bear and endure for the time these inhuman practices than to commit one overt act that would endanger the peace of society or in any way jeopardize what seems to be so evident to us now —the success for fair conditions of employment. We realize that your conduct and deportment throughout this entire strike, as a whole, has been admirable, notwithstanding there has been a persistent effort at different places to link your organization with violence.

"We propose to respect and uphold those charged with law enforcement, and should co-operate with every legitmate endeavor for its maintenance, and by doing this we can justily demand in return the full protection of the law.

"Your officers and organizations frown upon violence in any and every form, and will ever be found admonishing our members everywhere to so conduct themselves privately and officially as to merit the confidence and esteem of all worthy citizens. Our position in this crisis should be conversative; our utterances temperate and our conduct peaceful and law-abiding.

"You will be kept fully advised from time to time of the progress of events. Your field workers will visit your localities, and you are expected to advise them in matters pertaining to any grievance that you might think you have.

"We expect the local unions to co-operate with us fully and have their members remain at home and permit the officers to do effective work in extending the power and influ-
778 ence of our cause.

"While it is a very trying time, we are inspired of the splendid loyalty you have displayed in this contest, and we ask your fullest co-operation to the end that an equitable solution may be found for present conditions.

"Fraternally yours,

"JOHN P. WHITE,
Vice-Pres. U. M. W. of A.

"W. R. FAIRLEY,
International E. B. M.

"J. R. KENNAMER,
Pres. District No. 20.

"J. L. CLEMO,
Secty-Treas. Dist. No. 20."

Mr. Drinker: After these two witnesses, there was one more production of votes in the same deposition. I referred to page 338. That that goes before is just a colloquy between counsel with reference to adjournment, and on the bottom of page 338 is the following:

"Mr. Drinker: Now I ask counsel for Defendants to produce, in order to make complete the files of the Journal asked for on the examination of the witness Green, Volume 25 of the United Mine Workers' Journal, covering the period between November 26th, 1914, and November 11th, 1915."

And on page 339, about two-thirds of the way down the page, after some more colloqy, is the following

"Two books were produced by counsel for defendants.

Mr. Drinker: The counsel produces two volumes purporting to contain copies of the United Mine Workers' Journal from December 3rd., 1915 to March 30th, 1916, bearing the
779 name K. C. Adams at the bottom of each volume, these being—we understand—from a series of bound volumes different from that contained in the previous production.

I ask the stenographer to mark for identification the two volumes, respectively, as Plaintiffs' Exhibit No. 31, BB and Exhibit No. 31 CC.

The stenographer did as requested marking the two volumes as indicated by Mr. Drinker."

Mr. Warrum: Now, I think it is proper to state that the Executive Board minutes, referred to, that cover a period after the beginning of this trial, have been, by the order of the court, produced, although it covers a period after the beginning of the trial.

Mr. Drinker: Now, we ask the other side to produce, as requested in the notice given them prior to the trial, that they produce the letter from William B. Wilson, Secretary [to] Labor, to John P. White, dated November 2nd, 1914, with a copy of the letter from Mr. Bache to the President of the United States, which it shows was enclosed therein.

Mr. Warrum: Now, your Honor stated that on matters that had been passed upon by Judge Youmans, that you would abide by his decision. Now the first petition presented to Judge Youmans, asking that we be required to produce, contained a paragraph setting out that Franklin Bache had written a letter in November to President Woodrow Wilson, turned over to Secretary of Labor William B. Wilson, who

thereupon, based upon that letter, wrote to President John White of the Miners Union on November the 2nd. We
780 produced those letters, and handed them to Judge Youmans, with the response, setting up the fact that the letter written by Mr. Bache, who was receiver of the plaintiff companies, and which was more than two months after the institution of the suit, was obviously self serving, and so appeared upon its face, and the letter of William B. Wilson, who was not a party to this proceeding at all, was predicated upon the letter of Mr. Bache, and we declined to produce them, and the plaintiffs are not entitled to them, and they are not competent evidence, and these gentlemen, upon the advice of the court, withdrew their request for any such production, and we now, if your Honor wishes to originally pass upon this matter, or take up the order of Judge Youmans, we now protest against the production of any letter written by Franklin Bache, President of these plaintiff companies, and receiver for them, as self serving in its purpose, and written two months after the institution of this suit; but we have tendered, and there has been read just now the letter that Mr. John P. White wrote, and there was no order of the court directed to John P. White.

781 Mr. Drinker: If the court please, Mr. Warrum, inadvertently, I am sure, but he has not in mind I think exactly what was the nature of the original petition to Judge Youman, in connection with his statement that Judge Yeoman had passed on this particular question. The first petition we filed before Judge Yeoman in connection with the production of papers was, I confess, an anomalous document; it was new, that is. We attempted to get an order under a certain procedure, which I need not go into in detail, but we attempted to get an order requiring the production of an adjourned date of these Indianapolis depositions, of the Board minutes, and of this letter from Mr. Wilson, and several other papers, and also in the same petition asked for the production and the trial, under Section 724, of the Journal and minutes of the convention. Judge Yeoman, during the course of the argument, intimated that perhaps he would not,—just in a general way it simply struck him unfavorably with regard to the production of the letter in that way, and we withdrew the request for it, but did not make any prayer to produce the order at the trial of the case.

But subsequently we filed another petition only under Section 724, asking for the Journal and Board minutes and correspondence between Stewart and Holt, but did not ask

for the letter from Secretary Wilson then, but asked them to produce it at the trial, or we would, introduce a copy, and that has never been passed on by Judge Yeomans as to whether relevant or not, because the request there was for the production at the taking of the depositions.

The Court: Did you serve your regular notice to
782 produce?

Mr. Drinker: Yes.

The Court: Has it been delivered to you?

Mr. Drinker: No, sir.

The Court: Proceed then to prove it by secondary evidence.

Mr. Drinker: We ask for it at this time, and we will go on with the proof. We do not intend to make the proof of their failure to produce at this moment, but we will later.

The Court: Proceed to make your showing as to the competency or materiality or relevancy of the letter.

Mr. Drinker: The only purpose now is to lay the foundation for the production of the copy.

The Court: The foundation is laid.

Mr. Drinker: (To counsel for defendants) May I have the Journal for 1914?

The Court: Is it your purpose, Mr. Drinker, to go into this somewhat extensively now?

Mr. Drinker: Yes, sir, it will take some time.

The Court: Then I think we had better adjourn at this time, and I assume that you will put in your time on that between now and the time of convening again in the morning?

Mr. Drinker: Yes, your Honor.

The Court: We will then adjourn now until tomorrow morning at 9:30 o'clock.

783 Fort Smith, Arkansas, Oct., 25, 1917.

Pursuant to adjournment as last aforesaid on Thursday October 25, 1917, at 9:30 o'clock, came all the parties as before and the trial of the case proceeded as follows:

Mr. Drinker: If the Court please, we offer in evidence from the United Mine Workers Journal of October 15, 1914, page 5, the statement of the ownership, management, circulation, et cetera, of the Journal in accordance with the Act of Congress of August 24, 1912.

Mr. Warrum: If the Court please, the defendants severally object to the introduction of this newspaper known as the Mine Workers Journal or of any article therein contained, for the reason we believe that no proper foundation has been laid for the introduction of the evidence, because a newspaper is not competent evidence of the truth of any article therein contained, because it in nowise tends to bind these defendants, or to throw any light on the plaintiffs contention regarding the issues in this case; because the matters referred to by plaintiffs in the offer of evidence, do not allude to any matter which, in the constitution of the International Union, is authorized to be printed in said journal; because it is not official matter published by the authority of the Union and signed by the International Officers.

The Court: That would not be necessary, for them to be signed, if it is the organ of the Association and they are responsible for it. Just what is the foundation that has been laid?

Mr. Warrum: Just another cause of objection, if the Court please. We desire just simply to have the rec-
784 ord show our objection. And we object for the further reason that the offer is of an article in the publication which counsel states was of date of October 15, 1915, occurring more than one year after the culmination of the alleged conspiracy, and more than a year after this action was instituted.

Mr. Drinker: This article is dated October 15, 1915, after the suit was begun, but the only purpose of this is to show that it is conceded to be published by the International Executive Board of the United Mine Workers of America.

The Court: In other words, you are laying the foundation for the offer?

Mr. Drinker: Yes.

The Court: The objection is overruled.

Mr. Drinker: In the hatters case it was decided by the Supreme Court that the journal of the United Hatters was admissable.

The Court: But they had to lay the foundation first.

Mr. Warrum: If your Honor please, as I understand it, the exceptions are understood to be saved?

The Court: Whenever you reserve an exception.

Mr. Warrum: I tried to reserve an exception, but counsel was making a statement at the same time.

The Court: The exception is allowed.

Mr. Drinker: This is a statement of the ownership, management and circulation, so forth of the United Mine Workers Journal, on page 5 of October 15, 1914, on column 1, half way down the column, in bold faced type as follows:

785 "Statement of the Ownership, Management, Circulation, Etc. of United Mine Workers' Journal, published weekly at Indianapolis, Ind., required by the Act of August 24, 1912.

Note: This statement is to be made in duplicate, both copies to be delivered by the publisher to the postmaster, who will send one copy to the Third Assistant Postmaster General (Division of Classification), Washington, D. C., and retain the other in the files of the postoffice.

Editor—Edgar Wallace, Indianapolis, Ind.

Managing Editor—None.

Publisher—National Executive Board of the U. M. W. of A., Indianapolis, Ind.

Business Manager—Joseph Poggiani, Indianapolis, Ind.

Owners—United Mine Workers of America, Indianapolis, Ind.

Known bondholders, mortgagees and other security holders, holding 1 per cent or more of total amount of bonds, mortgages or other securities—None.

JOSEPH POGGIANI,
Manager.

Sworn to and subscribed before me this 25th day of September, 1914.

(Signed) DELOS A. ALIG,
Notary Public.

(My commission expires January 30, 1915.)"

786 Mr. Drinker: We now offer from the report of John P. White, for the year 1914, contained on pages 72 and 73 of the proceedings of the Convention of the U. M. W. A., Vol. 1, 1914, being Exhibit 29 O, W. S. G., Notary.

Mr. Warrum: We object to the introduction and reading in evidence of any part of this report of the president unless it is all read.

The Court: Any portion of any report or book, taking the book as a whole, that is offered by plaintiffs, may be received, so much as is offered, but with the understanding that the Court is of the opinion that counsel for defendants are entitled to the whole of it if they desire to read it.

Mr. Warrum: Shall we wait until the presentation of our case before we read it?

The Court: No, it may be read as a part of the cross-examination. That rule is very well established, and I can cite you to cases in which it is so held.

Mr. Warrum: Then we withdraw the objection.

Mr. Drinker: The portion we offer begins at the middle of Page 72 and goes on through that page, from the report of John P. White for that year giving the growth of the Union and it is as follows:

"Local Unions and Membership.

During the last two years there have been 530 local unions organized, 191 in 1912, and 339 in 1913.

I herewith submit a table showing the average paid-up membership from the years 1890 to 1913, inclusive:

	1890	20,912	1902	175,367
	1891	17,044	1903	247,240
	1892	19,376	1904	251,006
787	1893	14,244	1905	264,950
	1894	17,628	1906	230,667
	1895	10,871	1907	260,740
	1896	9,617	1908	252,018
	1897	39,371	1909	265,274
	1898	32,092	1910	231,392
	1899	61,887	1911	256,256
	1900	115,321	1912	289,269
	1901	198,024	1913	277,682

788 Mr. Warrum: Under the rule which the Court has adopted, must we read now?

The Court: You may do as you like, either read now, or you may make it a part of your cross-examination.

Mr. Warrum: I think we can save time by not reading it at once, because we might have to read on in a desultory way.

The Court: Let the record show that counsel is offering, —what is this?

Mr. Drinker: The report of John P. White for the year 1914, contained in Vol. 1 of the Convention proceedings of 1914, from the middle of page 72 to the bottom of the page, being the first part of the sub-title "Local Unions and Membership", for the purpose of showing the growth of the membership from 1890 to 1913.

The Court: The defendants are entitled to offer as a part of the cross-examination so much of this report as in judgment relates to the subject introduced by the portion of the report introduced by the plaintiffs. They may do so now or read it as a part of their cross-examination as a whole. Let the record show your election.

Mr. Drinker: Perhaps it would be of help, and for the information of Court and counsel if I state that I have here a tabulated list of extracts which prove certain things, skipping around in the reports, and I will come back to the same things again on other matters. It will take me a day and one half to get these things all in, and it might save time if I could get it all in now.

The Court: I understand the defendants elect to put their part in after you have made your offers.

789 Mr. Warrum: Yes, we wish to do that.

The Court: As counsel for plaintiffs states that he may come back to that very book, it is understood that the Court is of the opinion that whenever an exhibit is introduced by the plaintiffs, everything that relates to that subject in the report as a whole, is competent on cross-examination. I suggest that counsel can either keep a memorandum of these citations or that you may furnish them with a copy, or let them make a copy of yours.

Mr. Drinker: I think I have a copy of the trial brief with notations.

The Court: I think that will be helpful. There is no reason why we cannot help each other as far as possible and thus save time.

Mr. Drinker: I have not taken it on myself to make any pencil marks in these books, but if there is no objection I can draw a pencil mark around the part offered so that they will see what they are.

The next volume I wish to offer is from the proceedings of District 21, of the special convention of May 18, 1914, from Mr. White's report. That is not here, but I understand that Mr. Grant will get it.

Mr. Grant: I will go to the office and get it right now.

Mr. Drinker: I will skip that for the present. It is on the same subject.

From the report of the Secretary-Treasurer, Wilson, of the United Mine Workers of America for the year 1906, found on pages 58 and 59 of the minutes of the National Convention for that year, being Exhibit 29C, the bot-
790 tom paragraph on page 58 as far as the bottom of the paragraph on page 59, is offered for the purpose of showing the expenditures of the Union, on account of strike benefits during the preceding years.

The Court: What year is it?

Mr. Drinker: 1906. It is as follows:

"We spent for the support of the strike at Morris Run, Pa., $66,500.00. For the support of the strikes at Nanaimo, B. C.; Benton, Wash., and other places in District No. 10, we expended $20,400. For the support of the strike in the Meyersdale region of Pennsylvania we spent $152,000.00. For the strikes on the Cabin Creek, W. Va.; Spillman, W. Va.; Williamsport, Ky., and other points in District 17, we expended $29,597.40. For strikes in District No. 18, British Columbia, we [epxnded] $2,284.20. For strikes at Tracy City, Whitewell and other points in District No. 19, we spent $77,025.00. For the support of the strike in District No. 20, Alabama, we expended $402,724.32. For the support of the strike at Riverside and other mines in District No. 24, Michigan, we spent $1,400.00. The total expenditure for aid reached the enormous sum of $753,723.52. Most of these strikes have been settled during the year, but we still have on strike 4,634 men in Alabama, Tennseese, West Virginia and Kentuckv, who, [togehtr] with their families, make a total of 19,150 persons being cared for from the treasury of the International organization.

The strike at Morris Run, Pa., cost from beginning to end $111,100.00. The Meyersdale, Pa., strike cost from begin-

ning to end $395,000.00. The Tracy City and White-
791 will strike has cost to date, November 30, 1905, $127,
200.00. The Alabama strike has cost to date, November 30, $572,737.57.

We have now reached a point however, where our income is equal to our expenditures, and if we should be fortunate enough during the coming year to secure a satisfactory adjustment of our present strikes, I feel hopeful that we can again replenish our treasury to that point where it will be an effective instrument to protect us against the unjust attacks of unfair employers.

The amount we have in our national [treasurey] does not by any means show the full financial strength of our organization or its defensive power.

There is in the national treasury.....	$ 389,546.40
Reports from twenty of our twenty-three districts show in the district treasuries.....	1,536,078.03
Reports from twenty-one of our thirty-one sub-districts show in their treasuries.....	115,449.99
Making a total in the treasuries of the various branches of our organization of.....	$2,679,134.43

These figures would undoubtedly be materially increased if we had complete returns from the districts, sub-districts and Local Unions."

792 Mr. Warrum: With regard to that which has been read, the defendants separately moves to strike from the record as the extract from the report of Secretary Wilson for the year 1906, for the reason that it throws no light on any issue involved in this case, because there is no attempt to show why these expeditures were made or the circumstances under which these amounts were expended.

Mr. Drinker: If the Court please, the purpose of this is to try before the jury a picture of the entry, which we claim attacked us. If we had been attacked by an individual and assaulted, which is practically what this is, we would be allowed to describe the man who made the assault upon us, we would be allowed to show how big and able he was to destroy us, and that is our idea in offering this, to show their ability to do what we claim they did; that is the only way we can describe them.

The Court: This question here is whether this description you have here is germane to the inquiry. That is the only question here. It is not a question of the wealth of

these people or their power to raise money. That is competent only where the question of damages is concerned.

Mr. Drinker: We do not offer it for the purpose of showing that they can pay a verdict; we have no doubt about that. We only offer it for the purpose of picturing them, as I have stated. How can we have a photograph of this entity which assaulted us in any other way? If it was a man we could say that he was a fellow six feet three inches tall, that he was a man in the prime of a famous boxer. We can show this assault was committed, and this conspiracy grew
793 and grew, and we must show how the entity grew. We have shown how they grew in resources and now we want to show how they grew in size; it is a word photograph of the defendants.

Mr. Warrum: If the Court please, if it as a question of showing how much money they had or how much money they raised or how much money they possessed altogether, that might be justified, if at all, on the theory the plaintiffs counsel has advanced, of trying to show a picture of the size of this defendant, but that is not what they do. They undertake to show how much money was expended in Nova Scotia, how much money was expended in British Columbia and in Alabama and in different places, and your Honor can well see that if they are to present to the jury how much money was expended in Nova Scotia and in British Columbia and in Alabama and in other places, and if they follow that up with the various and numerous strikes, it will necessarily be incumbent on us, I assume the Court will recognize our right, to enter into the merits of each place and instance where this money was expended or rest under the imputation there was a nefarious expenditure of money in making those expenses. There is nothing here to show that this money was not spent in legitimate strike benefits to provide a living, a wage scale or days wages for the men who were out of work, but this evidence is being introduced from the financial reports of money on hand,—this evidence is introduced for the purpose of showing the money expended, and it is evident that the purpose is quite apart from the question of how financially solvent they are.

The Court: I do not know gentlemen, that any case has gone so far as to this kind of testimony.

794 Mr. McDonough: If the Court please there is a reason that occurs to me that makes this evidence admissible, and that is this; there will be a great deal of proof here tending to show, as we view it, that the International Union en-

dorsed this so-called strike, and this is evidence to show that they endorsed and supported strikes, and therefore ratified what was done in this strike. Now, if we do not connect it up—

The Court (interrupting): One of their constitutions especially provides that strikes is one of the purposes for which they organized. If that is the only reason I will not consider it.

Mr. McDonough: It is not the only one, but it is an additional reason that occurs to me, for it shows a ratification of what was done.

The Court: No, it would not be a ratification, it is too far fetched. I know of no case that has ever gone this far or near this far. If you have anything beyond the elementary principle, I will be glad to hear you.

Mr. Drinker: No, I think this is the first case, and we will have to hew the way.

The Court: The Court believes that if this testimony is introduced it opens the door to the defendants to go into not only each of its expenditures named in this report, but into the merits of the controversy, in order to remove any imputation of wrong, that is, to show all of the conditions and the circumstances. It would be interminable and certainly could serve no purpose in the determination of the issues in this suit.

The objection is sustained.

795 Mr. Drinker: May I say one word more?

The Court: No, the matter is settled. All good things come to an end. When I take the responsibility of a ruling that is all there is to it; I am responsible from that time on.

Mr. McDonough: May we save an exception?

The Court: The exception is allowed.

Mr. Drinker: From the quotations read there are two phases; there was one connected with the amounts paid out in these strikes, and certain other parts in connection with the money on hands and I understand there is no objection to the latter part.

The Court: I assume not.

Mr. Drinker: Perhaps I might designate which part was which. Then the passage offered is restricted to the para-

graph in the middle of page 59, being the third complete paragraph on the page beginning with the words, "that the amount we have in our National treasury does not by any means show the full financial strength of our organization" and so forth, to the next paragraph which reads, "these figures would undoubtedly be materially increased if we had complete returns from the districts, sub-districts and local unions."

796 Mr. Drinker: Now, we offer, and if I might suggest it, to make the record complete, if this can be put in at the place that I suggested before, before the last offer, because it pertains to that subject; after the list of the growth of membership, from the address by John P. White, International President, to the Special Convention of the United Mine Workers of District 21, convened at Ft. Smith, Arkansas, on Monday, May 18th, 1914; being one of the books produced by the defendants in answer to the order of the court, the first two complete sentences on page 15, as follows:

"We have within the last two years organized 530 new local unions of the United Mine Workers, and we have added 127,000 new members. We now number nearly 450,000 members, easily we could influence more than 500,000 men who mine coal in the United States."

797 Mr. Drinker: Now, the next three offers are to bring down the data relative to the expenditures for relief in strikes to date. I presume your Honor will make the same ruling with reference to them, but I want to complete my record.

From the printed proceedings of the United Mine Workers of America, Volume 1, of 1911, Exhibit 29-j, page 48, the last paragraph through the end of the figures, beginning on page 50; this being offered solely for the purpose of showing the size and resources of the United Mine Workers, by means of showing the amount that they expended for strike benefits during the succeeding years, from 1900 to the date of the report.

The Court: From what date?

Mr. Drinker: From 1900 to the date of the report, being 1910, which is the last year covered.

Mr. Warrum: The defendants separately object to the introduction and reading in evidence of the report proposed to be read in evidence by plaintiffs' counsel, for the reason that it undertakes to set the expenditures made by the Internation-

al Union from 1900 to 1909, for strike benefits, or 1910, over the different portions of the United States, involving and necessarily requiring the defendants to introduce evidence to explain the purposes for which those expenditures were made during that period of years, and the different localities in which they were made, and it throws no light on the plaintiffs' contention, under the issues in this case, and it is incompetent.

Mr. Drinker: May we further state, to get it clear, that in making this offer, there is no charge or implication that
798 those expenditures were made for improper purposes. It is solely to show the size and characteristics and ability of the organization to accomplish whatever their end may be, by showing their past performances and resources.

The Court: The objection will be sustained.

Mr. Drinker: We except. For the same purpose, we offer from the proceedings of 1912, the convention proceedings of 1912, exhibits No. 29-m, from the report of the Secretary-Treasurer, on page 84, the last paragraph, beginning, "The following is a summary of the amounts", to the bottom of that page.

Mr. Warrum: The same objection.

The Court: The same ruling.

Mr. Drinker: An exception. It is understood that we save an exception?

The Court: It is given whenever you save it.

Mr. Drinker: For the same purpose, we offer from the report of the Secretary-Treasurer Green, for the year 1914, from Exhibit 29-o, page 105, from the first paragraph, beginning with the second sentence, "During the year 1912 we have spent", etc., through the next paragraph, and through to the words, "Grand Total", giving the figures, and it is offered for the same purpose.

Mr. Warrum: We make the same objection.

The Court: The same ruling.

Mr. Drinker: An exception. Now, we offer from the United Mine Workers Journal of the 20th of January, 1910, page 6, from the annual report of President Lewis, in the second column, the middle of that column, the paragraph
799 or sub-division entitled, "Jurisdiction."

Mr. Warrum: To which offer the defendants separately object for the reason that this is not the best evidence ten-

dered to the court by the defendants, under the order of the court, and that the newspaper article is in no wise competent, and there is no proof of the truth or correctness of the matters therein stated, and it is in no wise binding upon the defendants, or either of them, and tends to throw no light on the issues in this case, and does not fall within the purview of the matters published, within the provisions of the constitution of the International Union.

Mr. Drinker: This paragraph is offered for the purpose of showing the organization of the United Mine Workers, and how the National organization is the supreme organization, and the other organizations are subsidiary organizations, and the reason that I cited it from the Journal, is it is the same report as the President published in the Journal, but it was circulated out through the membership, and we want to show that it was so advertised to the membership. that the situation was as disclosed.

The Court: I think the membership would be held responsible for the entire purposes of the organization, whether it was sent out in pamphlets to them or not. They are members of the organization, and the articles of incorporation, or articles of association, provide that the locals are subservient to the National organization, and that settles that question, as far as we are concerned.

Mr. Warrum: Your Honor, we wish to make the additional objection, since he has stated the purpose, that the constitution,—

800 The Court (interrupting): I have heard the constitution, and there is no question but what the membership are absolutely subservient to the National organization.

Mr. Drinker: The constitution also provides that the President has the right to interpret the constitution at any time.

The Court: To interpret it?

Mr. Drinker: Yes, sir.

The Court: I don't remember any such article in the constitution. Will you call my attention to it?

Mr. Drinker: Yes, sir.

The Court: I remember very well a provision as to how differences shall be settled, but I don't understand that the President is made the mentor to settle all of these things.

Mr. Drinker: I don't suppost he can settle anything, regarding the provisions of it.

The Court: Then the provisions of it would be for the court to say.

Mr. Drinker: We take it that a generalization is made, that is not directly in conflict with any provisions of the constitution, elaborated upon by the President, or the responsible party, and that is circulated and accepted by the membership, that that would be helpful in determining the status of the organization. The section of the constitution is Article 9, Section 7, under heading, "Duties of Officers": "He shall interpret the meaning of the International Constitution, but his interpretation shall be subject to repeal by the International Executive Board."

801 The Court: Now, what is it you are offering?

Mr. Drinker: This is an article in which he describes the jurisdiction of the International Union, in his annual report, and states that it is an International Union, and that the branches are subject to the main union.

The Court: What is the character of the article?

Mr. Drinker: From his annual report to the convention, and I can offer it, if it is better, from the convention proceedings here, but I wanted to show that it went out into the Journal, and was spread out among the membership. I would prefer to offer it from the proceedings, and make an additional offer that that same thing was published in the Journal. I am going to offer it in that way. I will offer from the convention proceedings for the year 1910, being that portion of President Lewis' report found on page 102 at the bottom, beginning with the words, "Jurisdiction" or that sub-title, to the middle of page 104, being Exhibit 29-h2, for the purpose that I have described to the court.

Mr. Warrum: Is the other offer withdrawn?

Mr. Drinker: The other offer is withdrawn for the time being, the offer from the Journal.

Mr. Hull (reading):

"Jurisdiction.

When the United Mine Workers of America was formed it was understood that its object was to organize all mine workers in America, and it was recognized to be a national organization. Later, the constitution was changed to make it an

International Union, having [jursidcition] over all districts,
sub-districts and local unions. The constitution provides
802 that the different branches of the organization shall be
governed by the International organization known to
us as the United Mine Workers of America.

Local unions derive their existence and authority through the medium of charters issued from the International Office of the United Mine Workers of America. This rule also applies to the authority conferred upon districts and sub-districts. This authority was conferred on the International organization by the representatives of the local union.

In the formation of district organizations it is the Local unions within certain territory defined by the International Executive Board that have the right to organize districts. Such districts when organized can enact laws for their government which are not in conflict with the International constitution.

Sub-districts and local unions have authority to make laws for their government which are not in conflict with the International constitution.

The control and management of the United Mine Workers of America should rest with the membership and be kept under the control of the members as near as good management and effectiveness will permit.

Since I have been elected to serve you as President of the organization there is a growing disposition in some districts to ignore the authority of the International organization and International officers. This sentiment has grown to such an extent that some members of the United Mien Workers have gone so far as to advocate district autonomy.

If it is the intention of the members of this organiza-
803 tion to have district autonomy or to permit districts,
sub-districts or local unions to make any law they see
fit and ignore the provisions of the International constitution, this convention should plainly define its attitude in favor of such a system. If we believe in an International organization in every sense that the term implies, this convention should make its position clear in order that there may be no misunderstanding on this question and no conflict of authority in directing the affairs of the United Mine Workers.

This question is an important one, not only to the membership of the organization, but it is important in order that we may understand our relation with the mine-owners of the country when negotiating wage contracts, and the authority

of the International organization to require the officers of districts, sub-districts or local unions to comply with the law embodied in the International constitution of the organization.

When the United Mine Workers was formed I was a believer in a national organization. I have never had any reason to change my opinion. As the Executive Officer of this organization I am willing to assume responsibility for any advice given to my associates or to any of the officers and members of the organization, providing that the officers and members are willing to accept the advice and carry it into effect. I am unwilling and will not be responsible for the conditions that may exist in any district as the result of the refusal of officers or members to comply with the laws of the organization and advice that may be given them.

804 I would recommend that this convention clearly define the authority of the International organization and all of its subordinate branches. This is necessary for the protection of the best interests of the membership."

805 Mr. Drinker: Now, we offer from the United Mine Workers Journal of October the 13th, 1910, page No. 4, column 2, entitled "Editorial Page," the three paragraphs beginning "Membership of the United Mine Workers of America," through that editorial, as far as the words "Lost Cards."

Mr. Warrum: The defendants separately object to the introduction in evidence of the editorial which plaintiffs' counsel proposes to read in evidence from the Mine Workers Journal in 1910, October the 13th, for the reason that there has been no proper foundation for the introduction of the document, and for the further reason that said newspaper, and the article offered therefrom, is not competent evidence in any event, and not binding upon the defendants in this case, and does not tend to support plaintiffs' contention upon the issues involved in this case; and for the further reason that said article does not purport to be an official communication or proceeding from the International Union, or signed by its officers, and not falling within the purview of the matters which the constitution of the International Union provide shall be published in it. It is a mere newspaper article or the views of the editor of a newspaper or magazine.

Mr. Drinker: It is the same sort of thing, only stronger, stating that the National organization is the supreme body, and that the local branches are subsidiary, to carry out its orders.

The Court: The court is of the opinion that sufficient foundation has been laid to show that this paper is an instrumentality of the organization, and which it is responsible for. What is the date of this?

806 Mr. Drinker: It defines the constitution of 1910, and the defendants' answer,—

The Court: The objection is overruled.

Mr. Warrum: The defendants except.

Mr. Hull (reading):

"Members of the United Mine Workers of America should keep in mind that they belong to an International organization, and its prestige for permanent good will always depend upon its International influence.

"The founders of the United Mine Workers of America fully recognize the enormous work incident to the successful management of the union and the necessity of dividing the work and responsibility into different departments or divisions.

"The International organization is divided into districts, sub-districts and Local Unions, all receiving their existence and authority from the International headquarters and all subordinate to International authority. This was done in order that there might be no conflict of authority in the adjustment of the various questions affecting the rights of the membership.

"The Local Union is the most effective and influential division of the United Mine Workers in making the organization a success and power to protect the rights of its members. The Local Union is the recruiting station, the place where the membership is taught the reasons why they should be active union men.

"The sub-district is organized to include within its jurisdiction mines that have nearly like conditions in order that the sub-district officers may be able to adjust any disputes that arise and to that extent lighten the work, the burdens
807 and responsibility of the district officers. Sub-districts when properly organized, officered and directed are a power in enforcing the terms of wage agreements.

"The districts are organized to exercise jurisdiction over all mines within certain limited territory defined by the International Executive Board or by an International Conven-

tion if it so desires. The authority to define district lines is delegated to the International Executive Board for the reason that the Board Members would naturally investigate thoroughly the relation of one district with another and the necessity of certain mines being under the jurisdiction of certain districts. The District Organizations have certain authority delegated to them and they are likewise a power to promote and protect the welfare of the membership.

"The International Organization exercises its authority over the districts, sub-districts and Local Unions and this authority is delegated to the International Union, not by the district or the sub-district, but by the representatives direct from the Local Union. The authority of the International Union is derived direct from the membership and the authority is delegated to the International Organization to divide the various mining communities of the county into districts and sub-districts. The object of the International Union is to bring into closer relationship the entire membership of the country and through its officers to be able to advise and recommend to the membership what is to their best interests and to formulate such plans as necessary to carry into execution any policies that an International Convention may adopt.

808 "An investigation of the jurisdiction and authority of the International Organization of the United Mine Workers, as well as its various sub-divisions, will convey to men's minds that the founders of the United Mine Workers had a very clear and keen conception of what was necessary in order that our organization would be successful in extending its influence, its power and its prestige over the entire mining industry of the country. The founders planned well when the United Mine Workers was organized. It will be for the membership of the organization to continue to carry into effect the plans upon which the organization was founded and to adopt such new policies as may bring a greater measure of success to the United Mine Workers organization.

"It is the duty of the International Officers of the United Mine Workers to make such recommendations as in their judgment may be beneficial to the membership. It is the privilege and the right of the membership through their representatives in International Convention to either reject, amend or adopt the recommendations offered by their official representatives. It is also the right of the membership through their representatives to offer such propositions as they in their judgment believe to be to the best interest of

the organization. When a majority of the members through their representatives in convention decide upon a policy, it is then the duty of the officers to endeavor to carry into effect those policies, and especially if those policies are in line with the principles and constitution of the International Organization.

"In order to secure the greatest measure of success the
809 membership, as well as the officials, should give their loyal and active support to the International administration. If the policies of the International administration prove to be a failure after the International Officers have received the active, united and loyal support of the subordinate officers and members of the organization, then the International administration should be held responsible for failure. There is no way to determine whether or not the policies laid down by International Conventions will be a success unless the membership will be active and loyal in their efforts to help carry those policies into effect.

"A number of the members of the United Mine Workers seem to believe that they are doing their duty to themselves and the organization by going out and misrepresenting their leaders, circulating misleading, and in many instances untruthful, things about the officers and the members of the United Mine Workers. It is to be regretted that some members of the organization either have no conception of the meaning of their obligation or have never taken the obligation of the United Mine Workers or have permitted themselves to forget what the obligation itself means. If a man who is a member of the United Mine Workers is true to the obligation, he cannot injure a brother member. This fact should be kept in mind and the membership would then be astonished how much more powerful the organization would become and how much easier it would be to organize the non-union mining districts of the country."

810 Mr. Drinker: I offer from Volume 1 from the proceedings of the convention of the United Mine Workers for 1912, being Exhibit No. 29-m, from the report of the President John P. White, on page 49, the bottom paragraph, entitled "Records of President's Office," through that section. The part from which it is offered, being merely the last paragraph, but it is necessary to explain what the last paragraph is about, and the purpose for which it is offered, being to show that the President, stating to the convention, described the District union as subordinate branches of the International Union.

Mr. Hull (reading):

"Records of President's Office.

"Upon taking charge of the office of President, I expected to find a complete file of all the important documents and official correspondence of preceding administrations. To my surprise and astonishment the official correspondence typewritten records of the meetings of the International Executive Board, etc., were not in the office.

I do not think it should require any argument to convince the delegates of this convention that in harmony with the obligation your officers take, they are honor bound to surrender to their successors all books and other property in their possession at the close of their official term. These records belong to the rank and file; they pay for the accumulation of these data and no one should remove them to the embarrassment of his successors and the detriment of the membership. In order that this condition of affairs may be overcome and the organization better protected, I would recommend that
811 the laws be so changed as to make it mandatory upon the heads of the different departments to leave all official correspondence and records affecting the organization, and be required under penalty of expulsion from membership in the union to surrender them to their successors.

While I have been able to discharge the duties of this office without these documents, there have been times when I would have appreciated it had I been in possession of the records of previous administrations and the official correspondence in many important cases that had been exchanged between the President and the subordinate branches."

812 Mr. Warrum: We move to strike that from the records, because it is irrelevant to any issue involved in this case. I don't understand how the President, coming into the office and finding the files disorganized,—

Mr. Drinker: That part about the records is absolutely immaterial, but the purpose,—

The Court: I understand your purpose. The objection will be overruled.

Mr. Warrum: An exception.

Mr. Drinker: We offer from the proceedings of 1912, being Exhibit 29-n, page 700, and beginning with the quotation, "Sec. 26,", on the 5th line of the page, to the sentence in the middle of the page, "Motion to adopt this section recommended by the committee was overruled."

Do you desire that I state my purpose?

The Court: I wish you would.

Mr. Drinker: This being a part of the proceedings in which there came up for discussion a clause in the constitution, which is now in the constitution, providing that where the local is disbanded, the money and supplies come to the International Secretary-treasurer, and a motion was made that it come to the District Secretary-Treasurer, and that was discarded, showing that their intention was that the International would be the one to which the locals would answer, and not the District.

Mr. Warrum: Do I understand that they offer the amendment to the constitution, or the debate leading up to it.

Mr. Drinker: The record of the committee, and the motion to amend it, and that that motion was overruled by
813 the convention and adopted in this way.

Mr. Warrum: We object to the introduction of the proceedings preliminary to the amendment, and the amendment will speak for itself, and certainly the debate and motions and action of the committee thereon will not be competent. It has been held by the United States Supreme Court,—

The Court (interrupting): There is no question about that, the objection will be sustained. Debates are only permissible where there is a difference in construction of what has been passed, but if there comes up a question of what was meant by the body, from which it emanated, then of course you can go back to the discussion, to the end that it may [—] terpreted in the light of what was said and done.

Mr. Drinker: An exception. We now offer from the Journal of April 1st, 1909, page 6, at the bottom of column 3, being a statement from Ft. Smith, Arkansas, that a strike has been ordered of the Bache-Denman mines, by Peter Stewart, President of District 21. This is not for the news that is incident to it, that is not so important, but for the purpose of showing that it was advertised to the membership that take this paper that a strike had been ordered in this locality by the Distri t President, in order to show the interpretation of the constitution by all the parties, that the District President had the authority to order a strike.

Mr. Covington: We object to that because they allege that they decided on a certain day to close down on a union basis,

and go upon an open shop basis. There was no strike, and it is not so alleged. There was no strike, but they al-
814 lege that they closed down as a union mine and went upon an open shop basis, and therefore it is certainly inadmissible to show that some strike prior to that time had been ordered at some other mine. The basis of their complaint is that they were about to go into bankruptcy. The opening statement of counsel, and the action is founded upon the allegation that they decided to close down on a union basis and go upon the open shop basis. There therefore was no strike. We ask that they be required to stay with the allegations made. On page 21 of the printed complaint appears the following: "And the Prairie Creek Coal Mining Company closed down their said mines and discontinued operation as union mines, preparatory to reopening upon the non-union or open shop basis."

Mr. Drinker: Counsel has not, I think, fairly interpreted our claim, and throughout he has been endeavoring to give the impression that this was not a strike, but a lockout. Our allegation is that we closed down the mine, that is, shut the mine down, preparatory to starting open shop, and we started open shop. Open shop don't mean that union men cannot work there, but the union and non-union men can both work there, and because they would not work with non-union men they struck our mine. That is what happened. There is no allegation in our complaint that we locked them out, we do not prevent any union man from coming there, and we didn't say it in our complaint, and never will, but we say that we would not work solely with union men, and for that reason they struck us, and we will prove that, not only that these men would not work with us, but would not let the non-
815 union men work for them. We claim it was a strike, and we offer the reports of their own district officers, calling it a strike, and proceeding to their next district convention, in that proceeding the President, in his report, heads a part of his report, "Prairie Creek Strike."

The Court: The contention of these gentlemen is that they say you closed your mine, and you say that your cause of action is predicated on what these men did when you opened up.

Mr. Drinker: That is exactly. We have not contended this was not a strike, but our whole contention is based on the allegation that it is.

The Court: But counsel say it is not alleged.

Mr. Drinker: We don't allege that it was a lockout. We closed our shops preparatory to opening on an open shop basis.

The Court: Then what follows that?

Mr. Drinker: We opened our mines non-union.

The Court: And what follows here?

Mr. Drinker: I have not a copy of that printed complaint, that is their private copy.

Mr. Covington: No, it is the only copy that we have over here, though.

Mr. Drinker: Where is that allegation?

Mr. Covington: This is the one (handing Mr. Drinker a pamphlet).

The Court: Where does it appear in this complaint?

Mr. Neal: Paragraph 23, your Honor.

Mr. Drinker: Will your Honor notice the allegation about the coal company, about the fifth line, "That the
816 Coronado Coal Company continued operation as a union company until April 18th, 1914, when its employes were ordered out on a strike by the defendants, in furtherance of the unlawful conspiracy herein set forth."

The Court: Objection overruled.

Mr. Warrum: Defendants except.

Mr. Hull (reading):

"Orders Strike of 1,000 Miners.

Ft. Smith, Ark. March 20.

A strike in the mines of the Bache-Denman Coal Company, Aoranada, Ark., has been ordered by President Peter Stewart of District 21, United Mine Workers of America.

About a thousand men are involved. The union is fighting the company's system of working the men "double in each room of the mines." "

817 Mr. Warrum: The defendants separately move to strike that out, on the ground that it is simply a newspaper item.

The Court: The motion will be denied.

Mr. Warrum: Defendants except.

Mr. Drinker: From the convention proceedings of 1904, the report of President John Mitchell, from Exhibit 29-b on page No. 37, to the last paragraph of the page, through the same paragraph at the top of page 38, to show the President's insistence to his membership, in their working all their force to make the union include every miner in the United States; to show his urging them, employing them to organize the non-union fields.

Mr. Hull (reading): "As demonstrated in a preceding section of this report, our organization has increased in numbers, has expanded in influence, and has grown to magnificent proportions. It is now, by overwhelming numbers, the strongest single trade union that exists or ever has existed in the history of the world; but, notwithstanding our great strength, there are still an army of our fellow workers who, for reasons best known to themselves, have refrained from affiliating with us, and while we have done well in the past, we still have much work to do in the future. Personally I shall not rest content until every man employed in the production of coal bears allegiance to the United Mine Workers of America; I shall not be satisfied—and I hope that you will not be satisfied—until the coal operators and the coal miners of the entire continent enter into such contractural relations as will insure peace and prosperity to all parties directly dependent upon the coal
818 industry and safeguard the public interest against the inconvenience, discomfort, and loss which result from the interruption of business following strikes and lockouts. Until this time comes, let us not be idle. Let us agitate and educate; let us organize and federate. Let the watchword be, Onward! Keeping everlastingly at it brings success!"

819 Mr. Drinker: We offer from the report of First Vice-President T. L. Lewis, to the convention of 1907, on page No. 58, Exhibit 29-d, the second paragraph, for the same purpose.

Mr. Hull (reading): "This Organization cannot remain stationary as long as there are any mining districts unorganized or as long as there are any wrongs to be righted. If we cannot go on then we will be compelled to go back and out of existence to make way for some other organization to accomplish what we have failed to do. But I am of the opinion that we can and will go forward until we have firm-

ly established every principle named in the preamble to our constitution."

820 Mr. Drinker: We offer from the proceedings for 1908, being Exhibit No. 29-e, the report of President Mitchell, on page No. 27 and 28, from the words, "On the whole", the eleventh line from the bottom of page 27, through line 5 on page 28, for the same purpose.

Mr. Hull (reading): "On the whole it is obvious that the organization is in better condition numerically than at any previous time in its history; but while we have manifest reasons to feel proud of the success of our efforts, there are still discouraging features which should receive from this convention the most diligent inquiry and serious consideration. I refer to the failure of our efforts to organize fully the miners of Virginia, West Virginia, Maryland, several sections in the southern states, the Meyersdale, Connellsville, and Irwin fields of Pennsylvania, and the [souther] portion of Colorado.

While I am confident that in the not distant future the mine workers of the entire continent will enroll themselves as members of our union and thus receive the protection and enjoy the benefits which have been secured for their organized fellow workers, I believe, nevertheless, that to bring about this result will necessitate the expenditure of much money and probably the inauguration of some policy different from that pursued up to this time."

821 Mr. Drinker: We next offer from the Mine Workers Journal, January 12, 1911, page 4, column 3, this editorial for the same purpose.

Mr. Warrum: The defendants separately object to the introduction in evidence of any editorial of the Mine Workers Journal for the reason they believe it is not competent as evidence in any event, and does not bind the defendants, or throw any light on the issues in this case, or support plaintiffs' contention, and that it is hearsay, and that there is no authority for binding the International Union by squibs in a paper or editorials or articles of that character.

The Court: Objection overruled.

Mr. Warrum: An exception.

Mr. Hull (reading): "The Twenty-Second Annual Convention.

"Before another issue of the Journal the Twenty-second Annual Convention of this organization will have convened in Columbus, Ohio, and we take this opportunity to salute the delegates and hope for a peaceful and profitable convention.

"The year past has been one of trials for the organization and a time of privation for every member, but we emerge from it as strong as ever and more resolute in our determination to do and dare for its perpetuation.

"Twenty-one years is a long time to look back, and there be few who can remember the handful of delegates who in 1890 met in the city of Columbus and, after years of repeated effort—and failure—resolved to make one more effort to unite the miners of the country into one organiza-
822 tion.

"Previous to that time there had been factions, part were organized under the Knights of Labor and part were organized under the National Federation of Miners and Mine Laborers, and the majority were not organized at all.

"The previous year the National Progressive Union had been organized to eliminate dual organizations, but because of the dissatisfaction of a few it resulted in failure. Those delegates who assembled in 1890 were in hope and fear; hope that this effort would bring success; fear because of the failure of all previous efforts. Nevertheless they determined to make one more effort to smooth over the rough places and bring the opposing factions into line in the interest of the rank and file.

"That they finally hit upon a plan that commended itself is apparent in the splendid organization we have today, not so strong as it could be, not so strong as it ought to be, but a power for the good of those organized and a terror to the evil doers among the coal operators.

"The organization is twenty-one years of age. With this convention it reaches its full grown age, but no its stature. There are new fields to win; there are new worlds (unorganized) to conquer. The mission is not complete, nor will it be until we claim as members of the U. M. W. of A. every coal miner in the United States and Canada.

"This object can be reached more expeditiously by eliminating all semblance of wrangling and presenting a solid front to those organized in opposition to us. Opinions must be allowed to differ, freedom of thought and speech must

be granted to every member, but that thought and
823 speech should always be conducted into channels that are best caluculated to bring success to the organization and all its members.

"The convention which meets in the city of Columbus next week should be as happy and free as the celebration of the twenty-first birthday of a beloved child. The history we have made in the last twenty-one years has been one of which we may well feel proud, generally speaking. So conduct the convention that it will cement the members more closely together and we will begin the manhood of the organization with renewed hope, quickened courage and more intense desire to promote its stability and usefulness to the rank and file, the men who by their loyalty to it have made its twenty-first birthday a possibility, and for whose benefit it is in existence.

"To the delegates to the twenty-second convention we say, an important duty rests upon you. So conduct yourselves that the twenty-second annual convention will prove more of a benefit to its membership than did that of the first convention.

"Success to the twenty-second convention. May its deliberations be such that it brings peace and brotherhood and eliminates all manner of factionalism and unites every coal miner on the American Continent in a solidly and determined fight for better conditions for all who work in and around the mines."

824 Mr. Drinker: We offer from the Journal of the 28th of August, 1913, page 1, the three pictures, entitled "Progress of Labor", for the same purpose.

Mr. Warrum: To which the defendants separately object, to the offer in evidence of three pictures from the Mine Workers Journal, because said pictures are not competent evidence, and in any event do not bind the defendants in this case, or throw any light upon the controversy here involved, or support the plaintiffs' contention regarding the issues in this case, and for the further reason that said pictures are not official documents or messages or circulars, or anything for which the United Mine Workers Journal, as an official organ for the publication thereof was authorized by the International Union.

The Court: It will be admitted upon the assumption that this is one of the functions of the governing authority, the publication of this paper. It is one of the functions of

the official paper, and that a sufficient foundation has been laid showing this fact. The objection will be overruled.

Mr. Warrum: An exception.

Mr. Drinker: We offer from Exhibit 29-n, being the convention proceedings of 1912, volume 1, page 79,—I will just make the offer from the report of Vice-President Hayes for that year, the middle of the page 79, entitled "Agitation Work", through that page, for the same purpose,—no, it is for the purpose of showing agitation and expanding their organization.

Mr. Hull (reading):

825 "Agitation Work.

I devoted some little time during the past year to agitation work, and had the pleasure of addressing a series of meetings in the Irwin field, Colorado, British Columbia, Michigan and the anthracite region, along with a considerable number of single addresses in various other fields. The policy of the officials mingling with the rank and file, it seems to me, is wholesome and beneficial, giving them an opportunity to know and become acquainted with conditions through personal contact, and the men the privilege of meeting and exchanging views with their representatives on the important problems confronting the organization. The meetings I addressed were generally largely attended and much interest and enthusiasm was manifest on each occasion.

Our movement, like others, needs the spirit of revival ever now and anon, and every local union ought to hold at least one big labor revival meeting each year, for the express purpose of stimulating new interest and activity in the movement. We should always bear in mind that indifference is a dangerous weakness, which, if allowed to continue, generally works havoc with the strongest kind of an institution. Agitation is the thing needed and desired in all districts, and we should take advantage of every opportunity to discuss and promulgate the principles upon which our movement is founded."

826 Mr. Drinker: We next offer from the proceedings of 1914, being Exhibit 29-0, page 85 to 86, being from the report of Vice President Hayes, from the place marked "Campaign in Non-Union Fields" on page 85, through that

sub-heading, and to the middle of page 86, for the same general purpose.

The Court: Gentlemen, we will take our usual recess of a few minutes, to give the jury a few moments relaxation.

Mr. Hull (reading):

"Campaign In Non-Union Fields.

In compliance with the oft repeated desires of our members, we have, during the past two years, waged a vigorous campaign in the non-union fields. The organization of the non-union fields is one of our chief tasks and the [cu,mination] of the campaign we have started must and will result in the complete organization of the coal mining industry of the land. We must never rest content until this goal is achieved. Our chief hope of future perfermont, better wages and better conditions depends upon our success in the organization of these fields. I am firmly convinced that every non-union field in the country can be organized and with the proper sort of financial support from our membership, because it takes considerable money to wage these campaigns, I am satisfied we can take one non-union field after the other and add them to our movement. When we first started out on this endeavor, we conceived the idea that it was necessary to sow the seed before we could reap the harvest, and in line with this thought we immediately began to establish branch offices in all the non-union mining fields
of the country, and in these offices we placed trusted
827 and experienced men who could mingle among the unorganized miners and explain to them the advantages and ideals of our union. Our representatives in these branch offices are also distributing a large amount of literature each week, bearing upon the necessity of organization and the value of the same. These branch offices have also given our movement a certain standing in all the unorganized fields and our office representatives have quietly organized and educated thousands of mine workers. As evidence of the successful organizing compaign we have waged during the past two years, I wish to say that two new Districts were formed and 530 new local unions were organized. All through the unorganized fields the mine workers are anxious to enlist in our union and are constantly appealing to us to wage a strike, if necessary, in order that their desires might be realized. Before strikes are declared, however, we always make every endeavor to effect peaceful settlements, inviting the operators to meet with us in joint conference, and appealing to them, as business men, not to spend millions

of dollars in fighting an organization that is here to stay and whose members will never rest content until every miner on this North American continent is enrolled under the banner of the United Mine Workers of America.

We have reason to congratulate ourselves on the progress we have made during the past two years, and as proof of this progress we have only to refer to the fact that we have added 121,426 new members to our union since our former convention.

In fact, half of the total gain in members shown by the American [Fedeartion] of Labor during the past year came from our union, and due to our success in recruiting
828 new members and conquering new fields, the American Federation of Labor has exceeded all past membership records and now has over 2,000,000 paid up members. With the endorsement of this convention and with your expressed determination to support and sustain the action of your International Officers in this work, we propose to carry on this campaign with renewal hope and vigor and will never cease our activities until the last remnant of non-unionism in the mining fields is forever removed."

829 Mr. Drinker: In the same volume, from page 315, the top of the page, the report of the committee on resolutions, their report on resolutions Nos. 16, 23, 66 and 115, for the same purpose.

Mr. Warrum: To which we renew the objection formerly made to the introduction of any part of the debates or proceedings of the convention.

Mr. Drinker: The committee reported these three resolutions, and No. 115 is a substitute for them, and resolution No. 115 was adopted to cover the subject matter of the other three.

The Court: They are entirely immaterial except that you may wish to show that which was adopted. The proceedings leading up to them are entirely immaterial.

Mr. Drinker: Then we will offer merely—I make that offer and ask an exception to the refusal of it.

The Court: The exception is allowed.

Mr. Drinker: And I will allow the offer to remain as to resolution 115 and the action of the convention in adopting that resolution on the recommendation of the committee.

The Court: That is, just the record of its adoption?

Mr. Drinker: Of what the resolution was, and of its adoption.

The Court: The objection is overruled.

Mr. Warrum: To which we except.

The Court: The exception is allowed.

Mr. Drinker: Resolution No. 115 is as follows:

"Resolution No. 115.

Casfle Shannon, Pa., January 2, 1914.

830 To the Officers and Delegates of the Twenty-fourth Consecutive and First Biennial Convention of the U. M. W. of A.:

Whereas, The administration of John P. White and his colleagues in office has seen a phenomenal growth in the membership of the organization, having greatly increased the membership in the three anthracite districts, firmly established it in West Virginia and made wonderful progress in other districts; and

Whereas, The progress has been made through the co-operation and assistance of the International Executive Board and by an active and militant campaign conducted by them which necessitated strikes and many sacrifices to gain a foothold in the unorganized portions of the country; therefore, be it

Resolved, That we indorse the policy of the International Executive Board for prosecuting an aggressive campaign in the unorganized districts and advise that the campaigns be continued until all the miners of the country are enrolled in the membership of the United Mine Workers of America.

JOHN McCARTNEY,
DAVID ADAMSON,
FRANK KARKALLA,
Committee.

Secretary Gay: The committee recommends the adoption of resolution No. 115 in lieu of Nos. 16, 23, and 66.

The recommendation of the committee was adopted by unanimous vote.

831 Mr. Drinker: Now, from the Convention proceedings for the year 1900, Exhibit 29 A, page 35, report of the committee on resolutions recommending a resolution of its

adoption,—the adoption of that particular resolution by the convention, from the bottom of column 1 on page 35 through the first two lines of column 2 of that page; for the purpose of showing the continual insistence by the officers and the convention policy to make all contracts in all of the different states and districts expire on the same date, so as to concentrate the power of the United Mine Workers of America to enforce their demands.

Mr. Warrum: To which the defendants severally object because counsel for plaintiffs purports to read from the report of the committee on the resolution which he says was afterwards adopted, because the resolution itself, if adopted, would be the best proof and the report of the committee would have nothing to do with it, and because it refers to the deliberation of an assembly of the defendants in 1900 and there is no attempt to show any connection between that act and the alleged loss or injury suffered by the plaintiffs in this case.

The Court: The objection is sustained.

Mr. Drinker: May I ask on what ground so that perhaps I may remedy it?

The Court: It is entirely immaterial what ocurred in 1900.

Mr. Drinker: It is followed up—

The Court: (interrupting): That has nothing to do with it. I perhaps have not been as specific as I should be in stating my viewpoint, but there must be a limit of inquiry here, and, in order to be germane to the inquiry, the
832 question must relate to a time at least reasonably with in the times involved in the controversy. The general history of the association is proper, but the specific acts covering a period of ten years are entirely improper.

Mr. Drinker: May I take an exception?

The Court: Yes, the exception is allowed.

Mr. Drinker: The next quotation is from the convention proceedings in the same volume in 1905; from the convention proceedings of 1905, being Exhibit 29 B, page 239 at the bottom of the page, a report of the Committee on Resolutions, recommending resolution No. 30 and its adoption by the convention; for the purpose of showing the policy to have all contracts terminate at the same date, and the recommendation that District 21 be included in the Central Competitive Field; to show the competitive relations between the different districts, which will be the next subject of inquiry.

Mr. Warrum: We renew the objection.

The Court: If it related to this particular Arkansas field that might be material.

Mr. Drinker: I would not say it was for the purpose of showing that Arkansas came into this particular field, but it is hard to begin anywhere developing these conditions which we contend finally gave rise to this date. I do not know where to begin, so that I begin with the United Mine Workers.

The Court: I do not think it is necessary to go into the entire workings of this organization. Suppose they had been in existence for hundreds of years; you could go back hundreds of years just as definitely as you can go back
833 ten years. It is not a matter of how it developed, but why it is. Insofar as anything here shows I think or tends to show it, the Court will permit that inquiry.

Mr. Drinker: There are other quotations, one in 1900, one in 1905, 1911, 1912 and 1914, showing how they were continually urging in their conventions to have all their contracts expire on the same date so as to give them power to enforce their demends, if refused, by united action. It is a history of that, and I began back here, which is the first place I found they started that policy, and my idea is to show how they pursued it through to a date just before our strike.

The Court: Was that policy in effect here in this field?

Mr. Drinker: No, they did not get it here yet.

The Court: It was not anything that expired here?

Mr. Drinker: No, it is merely to show their tendency and purpose to concentrate their power. None of these are specifically on this matter, but this is a circumstantial proposition to show the motive of these people. We have to show as a part of our case that their purpose in destroying our mines was to impede interstate commerce. And the next item to prove is to show that during all of their convention proceedings and the debates with their operators it was constantly urged on them, beginning with the 1890 conference, which we put in evidence yesterday, on down to date,—they were urged by the Union operators all the time,—the Union operators said to them in their conventions when they started to make contracts, "If you do not unionize
834 non-union fields, and if you will permit fields competitive with us to operate with non-union labor at low

cost, we cannot compete." That covers the whole place around; and I will show that as a motive, and that it goes back to 1898, where this started, in the contract, where the union operators agreed with the miners in the Chicago convention, when the Central Competitive Field of Ohio, Indiana, Illinois and Pennsylvania was organized,—that it was in 1898 they first contracted with the miners. They there made a contract by which the miners were given an eight hour day, the check-off, and were recognized as a union, and, in consideration of that, the eighth section was inserted by the miners agreeing that in consideration of those things they would protect the union operators against unfair competition and in the maintenance of scale prices.

The Court: That is a quite different proposition.

Mr. Drinker: I am just illustrating. That was back in 1898.

The Court: That is something you can bring right down to the present situation; the other is not.

Mr. Drinker: This is not a vital matter about the wage contracts.

The Court: It is so incidental and foreign that I do not think time should be given to it, or the field opened by it. It is entirely unnecessary.

Mr. Drinker: I do not want to open the field.

The Court: I think the objection should be sustained.

Mr. Drinker: And the 1905 one sustained?

The Court: Yes, sir.

Mr. Drinker: Exception.

The Court: Exception allowed. The Court does not
835 rule you cannot show any amendment at any time, but simply the proceedings leading up to it.

Mr. Drinker: I did not understand the ruling was going to be made holding me down to some date.

The Court: I do not mean that. What the Court says is limited to this inquiry.

Mr. Drinker: Next, from the proceedings of the convention of 1911, Vol. 1, Exhibit 29, J, page 605, being report of the committee on resolutions, recommending resolution No. 96, which was adopted by the convention, to the effect that they believed in one contract for the entire country—1911.

Mr. Warrum. To which the defendants separately objects for the reason—

The Court (interrupting): For all of the reasons stated?

Mr. Warrum: Yes, for all of the reasons stated and for the additional reason that it is perfectly legitimate to have contracts expiring at the same time all over the country; and that has no bearing on the issues involved in this case. It does not tend to show that a conspiracy existed; and if they had secured contracts expiring on the same date and any injury resulted therefrom damnum absque injuria.

The Court: The objection is sustained.

Mr. Drinker: Exception.

The Court: Exception allowed.

Mr. Drinker: Next, from the United Mine Workers Journal, January 11th, 1912, page 1, the call for the Interstate Conference by John P. White, for the purpose of—I will
836 read the whole thing; but the paragraph on which I am relying for its relevancy at this time is the paragraph stating that wage contracts in all of the anthracite as well as the bituminous fields will expire May 1st; for the same purpose. That is 1912.

Mr. Warrum: The defendants separately object to the reading by plaintiffs counsel in evidence of any article published in the Journal, for the reason it is hearsay, and as to this particular article it has already been introduced in evidence.

Mr. Drinker: If that is the same one, let us have it back. I beg your Honor's pardon.

The next items of proof which are the statements from the different joint convention proceedings between the miners and operators; and if your Honor desires I can explain what they are about.

The Court: I can understand what they are about. You have to show connection.

Mr. Drinker: It is to show the competitive relations of the different fields all around; and secondly to show the operators were constantly at the miners to make them keep those competitors away from them; to show motive. And, further, to show agreements between certain union operators in this central competitive field—certain union operators and the miners involved by which, in consideration of that, the miners agreed

they would protect them from the competition of non-union mines.

The first volume seems to have been mislaid, from 1898 down ot 1902. Of course, it will be a little difficult to understand the succeeding ones without the earlier ones, be-
837 cause they are talking back all the time, but I suppose the best thing is for me to begin with 1904, for which we have the book, and then go back to those when I get them.

The Court: Very well.

Mr. Drinker: And the stenographer will understand and put this in the record at the proper place.

The Court: Yes, very well.

Mr. Drinker: So that it will make the record orderly that I call the stenographer's attention to it.

Mr. Stenographer, will you please mark at this point in your notes "insert the quotations from the joint convention proceedings from 1898 to 1902 inclusive, which will be produced at a later time."

Mr. Warrum: The defendants naturally object to the record showing the insertion of these things.

The Court: He does not wish that. He is simply asking the stenographer to mark the place for it when it is so produced. He just wants a place left, so that when he presents this, whatever it may be, it will go in at that place.

Mr. Drinker: Then, chronologically, that makes the next item from the conventions of 1900. I will designate these books in connection with this offer. The proceedings of the conventions of the United Mine Workers, those I will speak of as miners conventions, and the convention proceedings of the operators and the miners I will refer to as "joint conventions". There are two sets of volumes, the miners conventions being the volumes marked Exhibits 29 A, B, C, D, and so forth, and the joint conventions being Exhibits 30, A, B, C, and so forth.

838 Mr. Warrum: They are only referred to as exhibits but not so marked by the stenographer in this case.

Mr. Drinker: They were marked that way by the Notary at Indianapolis.

The Court: I understand.

Mr. Drinker: From the miners conventions of 1902, page 116, being the report of the committee on resolutions recommending the adoption of resolution,—no, recommending the reference to the Executive Board of resolution No. 33, with the concurrence of the convention in that report; for the purpose of showing the recommendation of the convention to secure the organization of Virginia and Kentucky.

Mr. Warrum: We object for the reasons previously stated; these being preliminary matters previous to the passage of a resolution.

Mr. Drinker: All I offer it for is to show the resolution and its passage. I do not care anything about the rest.

The Court: The objection will be overruled, and it will be received insofar as to show that the resolution was passed.

"Resolution No. 33.

Whereas, The miners of Virginia and Kentucky in the past have been a detriment to the organization in other States by their not being organized; therefore, be it

Resolved, That our National organization shall use its power in all forms to bring these miners into the organization.

Passed by Sub-District 1 of District 12, and endorsed by all the Locals in said Sub-District.

839 ALFRED S. PENN,
Local 874.

The Committee recommends that this resolution be referred to the National Executive Board.

On motion the report of the Committee was concurred in."

840 Mr. Warrum: If the Court please, that is what they promised would not be read. They are reading now the recommendation of the committee. This convention was composed of several thousand mine workers, and their representatives, and this report says that so and so has sent in this kind of a resolution and they recommend its adoption. We renew our objection, and make the further objection that this matter back in 1902 can have no bearing in this case to support the plaintiffs contention; it cannot throw any light on the damages as stated by the plaintiffs, or any alleged conspiracy.

The Court: The court does not mean to overrule the objection as to the report—merely the fact the resolution was presented and passed. What was reported is immaterial.

Mr. Drinker: It is a report concurred in by the committee. How can you tell what it is unless you read the report of the committee?

The Court: Is it the report of the committee that is concurred in and passed?

Mr. Drinker: That is what it says.

The Court: Very well, the objection is overruled.

Mr. Warrum: To which defendants except.

The Court: Exception allowed.

841 Mr. Drinker: From the same volume, page 131,—

Mr. Warrum (interrupting): I do not think that record shows its adoption and the defendants separately move to strike out the record just read by plaintiffs counsel.

The Court: I assume that if the report of the committee is concurred in by the convention, that it is an adoption of that report.

Mr. Warrum: If the Court please, we do not want to be captious. I think the recommendation was referred to the Executive Board, and it may have died there; and that is no proof that it was adopted by the convention.

Mr. Drinker: I suppose the object was to refer it to the Executive Officers and that it be carried into effect.

Mr. Warrum: Every Local, and that is one of the duties of being a member of a Local, the privilege of presenting all of the resolutions they may desire, to these conventions, where they are referred to a committee and there die.

The Court: They do not die with the Executive Committee; they are not referred to the Executive Committee until they are passed and concurred in.

Mr. Warrum: I suppose when they are referred to the Executive Board, they are referred back to the convention.

The Court: The Court will assume that, in the light of the powers given the Executive Board by your constitution that when a report of a committee is adopted and referred to that board, it has been adopted by the convention.

Mr. Warrum: It is received but not adopted. The committee to whom the report has been referred will report this resolution be referred to the National Executive Board, and
842 the report of the committee is that the resolution was concurred in; and I presume it was referred to the International Executive Board, and its action is not shown by counsel.

The Court: It is the final disposition of it so far as this body is concerned.

Mr. Warrum: Yes, but it is not an acceptance of it.

The Court: The objection is overruled.

Mr. Warrum: Exception is reserved.

The Court: Exception allowed.

Mr. Drinker: From the same volume, page 131, the report of the special committee to arrange competitive scale districts being in the middle of page 131, through the second line after the signatures of the committee,—the place where the motion to adopt the report of the committee was carried by the unanimous vote of the convention; for the purpose of showing the competitive relations as by that committee had adopted at that convention, between the various districts, and particularly scale district 5, composed of Missouri, Kansas, Arkansas, Indian Territory and Colorado.

Mr. Warrum: To which the defendants severally object for the reason that this is a matter of legislative discussion, occurring in the annual convention for the year 1902, and it has no bearing upon the issues involved in this case. No connection is shown between that and the injuries alleged to have been received by the plaintiffs or any conspiracy that culminated in that.

The Court: Is that the beginning of what you offered awhile ago?

843 Mr. Drinker: It is not the beginning; that is not here.

The Court: Objection overruled.

Mr. Warrum: Exception reserved.

The Court: Exception allowed.

Mr. Hull (reading): "The special Committee appointed to arrange competitive scale districts reported as follows:

Indianapolis, Ind. January 28, 1902.

To the Convention of the U. M. W. of A.

Your Committee on Scale Districts begs leave to make the following report:

The Committee recommends the following Districts for scale purposes, and the National officers are hereby instructed to do all in their power to establish joint conferences in these Districts:

Scale District No. 1 shall be composed of the anthracite coal fields of Philadelphia.

Scale District No. 2 shall be composed of central and northern Pennsylvania bituminous coal fields, Maryland, Virginia and that portion of West Virginia which ships the majority of their coal to the Eastern market.

Scale District No. 3 shall be composed of western Pennsylvania, the Fairmount and other sections of West Virginia which ship [voal] west, Ohio, Indiana, Illinois, Michigan and Iowa.

Scale District No. 4 shall be composed of Alabama, Tennessee, and Kentucky.

Scale District No. 5 shall be composed of Missouri, Kansas, Arkansas the Indian Territory and Colorado.

The Committee recommends the adoption of the above
844 Scale District, subject to change by the National Executive Board whenever competitive conditions require it.

The Committee further recommends that the Joint Conference called for April in District No. 25 be postponed, subject to the call of National Executive Board and District Presidents of Districts 14, 21 and 25.

The Committee further recommends that all agreements be made to expire on the same date, and that all the agreements include the eight-hour day.

(Signed) T. L. LEWIS, Chairman,
JOHN P. REESE, Secretary.
J. W. HOWE,
T. D. NICHOLS,
THOMAS HAGGERTY.

It was moved and seconded that the report be adopted as read.

The motion was carried by a unanimous vote."

845 Mr. Drinker: From the same volume, page 114, the report of the special committee on organization—the adoption of the report by the convention,—beginning at the middle of page 144 and on down and including page 145.

Mr. Warrum: The defendants severally renew their objections.

The Court: Objection overruled.

Mr. Warrum: We save our exception.

The Court: Exception allowed.

Mr. Hull (reading): "Report of Special Committee on Organization.

Indianapolis, Ind. Jan. 28, 1902.

Officers and Members of the Thirteenth Annual Convention, United Mine Workers of America:

Gentlemen: We, your Special Committee, appointed to formulate a policy which would culminate in a complete organization of all the competitive fields, are fully convinced that the two Virginias have been a menace to the perfection of our organization.

Therefore we recommend that the National Executive Board pursue the most aggressive policy that they, in conjunction with the several District Presidents, can pursue to bring about organization in the different Districts, not only in Virginia but in all other Districts.

We also recommend that the National Executive Board be empowered to employ organizers of different Nationalities to help National and District [Offiiciers] in this work.

We further recommend that in case of a strike in any District of the employes of any company who operates mines in competitive or other Districts that the National Executive Board be empowered to order a suspension of work in said mines in support of strike in said District, if, in their judgment, it is deemed advisable.

846

JOHN VASEY,
J. D. WOOD,
J. A. SPRINGER,
PATRICK GILADY,
WM. LITTLE,
JOSEPH PENDLETON,
Committee.

On motion the report was adopted by a unanimous vote of the Convention and the committee discharged."

847 Mr. Drinker: And now, I come to the joint convention proceedings, beginning with the year 1904, relative to this matter. From the proceedings of the point conferences C. L. and C. L. N., being an exhibit No. 30 B, page 9, a statement of President Mitchell of the miners, beginning with the second paragraph on the page, through that paragraph. And in the quotations where I refer to the secand or third paragraph, for instance, I refer to the second or third paragraph that begins on that page, not counting any any paragraph that, a part of which may come over from the next preceding page.

848 Mr. Warrum: The defendants separately object to the introduction in evidence by plaintiffs of any extracts or quotations from the speeches and debates published in the printed volumes known as the Joint Conference Reports of the officers and delegates of the United Mine Workers of America, and the operators in the Central Competitive field, for the following reasons:

Because there has been no proper foundation laid for the introduction of said evidence; because said printed volumes show on their face that they contain debates and discussions between the operators and miners concerning the acceptance, rejection or modification of the miners demands, being speeches made in the course of debate, and not binding upon any of these defendants; because the evidence now in the record shows that the representatives of the United Mine Workers of America who attended said joint conferences were empowered by the National Convention of said Mine Workers to only negotiate the particular matter set out in the report of the joint scale committee of such National Convention; and that the only act of the representatives of said Mine Workers which would be binding upon said defendants was the joint scale agreement agreed upon at said Convention and ratified by the National Convention of the United Mine Workers of America, or by referendum vote of the National membership of said Union; and because the evidence that is sought to be introduced does not tend to throw any light upon or have any connection with the injuries claimed to have been received by the plaintiffs in this cause, or to establish any conspiracy for the destruction of the plaintiffs property.

849 The Court: Have you stated in your offers where you propose to show the relations of the operators and the miners?

Mr. Drinker: Yes, your Honor.

The Court: With reference to this particular question? I do not mean this particular mine, but the question involved in this controversy, as to union and non-union mines.

Mr. Drinker: Yes. These quotations I tried to separate and I could not. Each one of them practically covers the three heads for which they are offered, and so I make the offer of all this line of testimony for these purposes; to show the motive primarily of the United Mine Workers in organizing non-union fields, and in holding in their organization the union mines which would try to operate non-union, to protect the union operators in the competitive fields against the ruinous competition of the non-union mines. In the course of these debates the operators are all of the time at the miners saying "We cannot make our scale with you under the onerous conditions with which we are confronted unless you bring up the competitive fields to the same state we are."

The Court: Where do you find these?

Mr. Drinker: In the debates, for the most part, between the miners and the operators in that Central Competitive Field, where the miners are represented by their International Officers, and by their scale committee to the International convention, and the delegates appointed by the miners to attend and hear those arguments by the operators and fix in that way a basic scale in the competitive fields, and which results in that ultimately, although it is
850 indirect, and it has that effect all over the country. That is where they talk this matter all over together, just the same as in the case of a man accused of murder, and the motive alleged is that he was trying to collect or get the insurance policy on the man killed. You could show that that man's life had been insured for $20,000.00. This is to show that the object of bringing up these non-union fields by imposing conditions was to restrain interstate commerce between the union and non-union fields. It goes right straight down and it is a steady pressure put on the miners from that time down. It shows that they were engaged in their whole organization in protecting the union operators against the intrusion of non-union mines, which would compete in and affect the economic conditions in the

union mines, and take the business away from the latter. That is the whole gist of the case.

The Court: Is there anything in the resolution passed finally that indicates that?

Mr. Drinker: Yes, it starts out with the agreement.

The Court: We are not so much concerned with what was said, but is there anything in the final action taken by the joint conference which indicates the thing you desire to show?

Mr. Drinker: The 1898 convention indicated it because they had this agreement by which the union agreed to unionize the non-union field and they had a lot of disagreements as to what that meant. At first the operators consented,—the operators from the beginning contended that that agreement, in its essence, and as understood by the parties, was to organize West Virginia and the other fields which
851 had competed with the Illinois field. The miners at first agreed. We have statements of Secretary Green and others that they had agreed,—

The Court (interrupting): That is getting away from this situation.

Mr. Drinker: You cannot understand Mr. Green unless you go back to what happened before.

The Court: You cannot offer testimony as to what occurred in those meetings.

Mr. Drinker: Perhaps I have not made it clear. The miners were represented by the representatives of their organizations and the delegates to the convention,—

The Court (interrupting): Even if they were delegates to the convention, what they might say might be germane to what they were considering, and it might not be.

Mr. Drinker: It is germane.

The Court: I do not think I am prepared to go that far. I am prepared to permit you to show any action taken and that represents a majority action, and I am willing to concede that the motive of that body of men may be changed by a majority action, but what was said by one or another member cannot be proper.

Mr. Drinker: The action of the convention is the thing that would be relevant, and this is not offered to show that

the miners or the operators did anything, but to show that the miners were trying to force us to unionize and from 1898, all over the field, to 1914, it was urged that if they were not unionized, the operators could not compete. It was constantly brought home by the miners and the operators that they must do this. This thing is vital to our
852 case, to show the motive of the miners, and the only way we can show that is to show by what people told us. You can show it perhaps partly by what they did, but what they were [constnatly] told and urged is certainly relevant to show why they did a certain thing.

The Court: Were these meetings held at stated times or on call?

Mr. Drinker: Practically on call.

The Court: And they were constituted from representatives from each local mine?

Mr. Drinker: No, sir, representatives I think were appointed by the convention of the United Mine Workers or by the officers, but it was a representative convention appointed by the whole organization of the United Mine Workers.

The Court: On the one hand, and the operators on the other?

Mr. Warrum: May I make a statement?

The Court: Yes, I want to get all the light I can on this.

Mr. Warrum: This was all explained in the deposition of William Green. Previous to 1912 the International Convention of the Miners would be held at Indianapolis, and they appointed a scale committee to which was referred all of the Miners' demands that were sent in there and they formulated what was called the Miners' demands, or report of the Joint Scale Committee to the National Miners' convention assembled, which representatives and that scale committee, together with the officers of the International Union, held a meeting with the Operators of the Cen-
852 tral Competitive Field of the four states named, called by the President of the Mine Workers' Union, a copy of the call having been introduced in connection with that evidence. They met somewhere, at Toledo, or Columbus or somewhere else, Indianapolis, once I believe in Philadelphia and once down in Mobile. They met pursuant to the call, to negotiate a wage scale for the next year or two years. When they meet they organize and the Miners' de-

mands are presented to the convention. Then they debate that. They begin debating. The miners usually ask for an increase. They ask for mine run coal. The coal is screened in Indiana and Ohio. Mine run prevails in Illinois; and they ask that it be extended everywhere. And there are other things that enter into the Miners' demands, such as were read in Mr. Green's deposition. And after that the Operators make a counter proposition or they begin to debate on the Miners' demands. And that will run along perhaps for several weeks, and sometimes they adjourn in the meantime and meet again. Now these debates cover everything from Genesis to Revelations and among the debates are included all subjects that may occur to the Operators in repudiating this scale that is asked by the Miners, to show that they should not adopt the mine run or check off or grant an advance in wages, or anything that occurs to them. The purpose of the convention is either to bring about an acceptance or modification or rejection of the wage scale that the Miners demand. Now, if the scale is accepted in the exact terms, it goes into force and effect. If it is modified it does not go into effect until it is referred back to the convention that has been assembled.

854 That prevailed until 1912 when it was found to be cumbersome and instead of convening the big National Convention they have adopted the scale miners [plebisit] or referendum vote; in other words, the miners reserve the right to exercise over the action of their agents in this deliberative body to modify its action or the right to affirm it.

Now, that was the commission with which the miners representatives were armed and presented to the convention, as the basis of negotiation, and the scale was agreed on if any was agreed on. Anything else was a debate, and anything else they could think about was debated about, but under the rule of United States the trans-Mississippi, 166 United States 290, when deliberative bodies get together what they say is of no importance, but what they do. Perhaps the man who speaks is not uttering his sentiments and the man who sits still may not agree with him and it is impossible to tell what was done without referring to the record.

Mr. Drinker: If your Honor please, I entirely agree with what counsel has said about the trans-Mississippi case. We are not trying to show what the conventions did by what they said. The purpose is entirely different from that and I want to be sure your Honor does not rule on it until I have made the point perfectly clear. Perhaps I might [makie] it clear by

an illustration; suppose the motive of the United Mine Workers of America in organizing a non-union mine,—that the reason they wanted to unionize a certain mine in another state, was to prevent the competition between that non-union mine and a union mine in another state. We have shown the union did that, but why did they do it? Because they had a
855 grudge against a man for some unknown reason or to prevent interstate commerce; and that is the reason this is an important proposition. Suppose the question was whether the unionization of a mine in Arkansas was done for the purpose of preventing interstate commerce between that mine and another mine in Missouri except on the terms the miners would dictate. Now, I presume that if you could find a time when all of the miners of Arkansas and Missouri were in joint conference in Kansas City—suppose a miners convention was being held in Kansas City, it does not make any difference what they were doing during that convention, but that was a representative body of the miners that was there; that is the only way you can get the United Mine Workers in [authoriative] convention.

Suppose I am some operator in Missouri, a big operator in Missouri who has signed up with the union and I go into the convention where the United Mine Workers are talking about the aurora borealis or anything else, it don't matter what they are talking about, it don't make any difference what they are talking about; but they are in assembly and I am a Missouri operator and I take the floor and I say to them, "Gentlemen, I cannot make a contract with you next year to operate in Missouri, I cannot give you an advance in wages; I cannot allow you the conditions of employment that are imposed on me by the contract; I cannot live under it, because the competition of the Bache mines in Arkansas is so onerous. They can mine coal for fifty cents a ton less than I can and put it in Missouri for less than I can. And if you make another contract with me next year you have got to organize the Bache mines
856 and bring their cost up to mine."

Now, it does not matter whether this was a convention, if they could have met the miners on the street in an authoritative collection it would be just the same. And that is what this is to show, that where the miners were represented by an authoritative lot of miners they were being urged constantly to do that by the operators, and then to infer from that, when the miners did these things later which they were urged to do, they did it to comply with the conditions the operators laid down.

Mr. Covington: May I have a word?

The Court: Yes.

Mr. Covington: The Concrete result of these conferences is the contract. That is the result and agreement of what is said. The contract goes back to the rank and file of the miners for endorsement or rejection. The language used by the conferees in debating certainly would not be binding on the defendants in this case who are numerous and scattered throughout the country. It might be that their representatives have said something that they should not have said, but the coal digger back at home, all he knows is the concrete result of that conference, and that is the contract entered into by the agents of both factions, the operators and the miners. It cannot be said that he would be bound by some inflammatory speech made on either side. No doubt the matter covered a wide range in the course of the argument. The operators, in their effort to reduce the cost of production, to get the very best terms possible, no doubt find out that here and there certain conditions exist and probably the miner in re-
857 sponse, had to be shown that on one occasion some man got up and said the operators entered into an agreement to reduce the price of coal under this contract. The contention is that whatever may have been said in the course of debate could not be binding on the defendants in this case. The debates in Congress have, on one or two occasions, been referred to, but in the trans-Mississippi case, which counsel quoted a moment ago is laid down the rule which we contend is the law of this case.

Now, with reference to the fact that they want to show the motive, the motive of the operators representatives and the representatives of the union, when they meet in these conferences and discuss these matters is, without reiterating, in my judgment,—there is but one result and as Mr. Green has stated in his deposition,—he said that after all is said and done the thing the miner gets is the contract the wage scale; all the operators will get at that convention is the wage scale agreed upon. So I cannot conceive of how it is possible to bind the defendants in this case by something that has been said in debating on internal questions. They were there contesting every inch of the ground; the operators saying, "You cannot do this" and the miners demanding that they be paid higher wages. And, so far as the purposes for which the organization is formed is concerned, as has been stated in the deposition of Mr. Green, the object and purposes of it is to unite all miners. There is no dispute about that and no effort has or

will be made to dispute that particular thing, that they will use all lawful and fair means to bring into their organization all those who labor in that particular field of industry.

858 Another proposition, your Honor, is this; and it has been so held I think in one case, that although they might show a particular violation of the Sherman Anti-Trust Act, unless they can show that that violation resulted in injury to them they have no right to complaint. They might go out and tear up West Virginia, they might go in there for the express purpose of destroying the means of producing non-union coal, destroy the means of transporting into other states of the nation, but unless they show that that resulted in injury to the plaintiffs, that one particular act, they would not be entitled to recover.

The Court: No, not on the general proposition, but in this case, in the view that the Court of Appeals took of this case, emphasis is laid on the conspiracy between these various people and therefore the intent becomes important, does it not? You know that in a criminal case you can go out and show—supposing a man is charged with using the mails to defraud and that the defrauding consisted in the issuing of a false advertisement. You can allege an overt act, but when you come to trial on that you might find that he mailed that circular to C. B., but you have to show the intent. I am wondering whether or not that element enters into this situation.

Mr. Covington: It would be immaterial about the intent if the act destroyed interstate commerce or caused the injury alleged here; the intent would be immaterial. But my idea is, talking about the coal digger knowing anything about commerce, why, why he could not define commerce in four or five years, very few of them. Their idea is that the pur-
859 poses of the organization is to obtain shorter hours and better wages and better living conditions for the miner and his family, that those are the only purposes for which they are organized.

It has been suggested by counsel as to the intent of those meetings, that the delegates were elected and sent up there for the purpose of entering into a combination to violate the law. The fact is that they were charged with the specific duty of obtaining a contract and clothed with the power to contract and nothing more, not to violate the law.

The Court: Supposing, however, they were sent up there for that purpose obstensibly, while, as a matter of fact, it developed from what they did that the intent and purpose—

by what they said, that the intent and purpose of the operators and the representatives of the miners, was to do the thing that it is alleged in this complaint they did here, and interfere with interstate commerce. If the real intent and purpose was not only to unionize, but it was to use the strength of that union to defeat and interfere with interstate commerce in that their strength should be applied against the men that did not unionize—supposing that is the condition.

Mr. Covington: But, if your agent is sent out to do a specific thing and he goes aside from his line of duty and commits some act which results in an injury to some one else, then he is not acting within the scope of his authority and he cannot [find] you.

The Court: That is another thing.

Mr. Covington: They were not clothed with authority
860 to violate the law, but they went out to make a contract legal in its nature and if they entered into a discussion of matters which would mean a violation of the law they were stepping outside the line of their authority and they had no right to do it, and the defendants would not be bound.

The operators association is legal in its inception; it is admitted that the miners organization is legal and its constitution proper. And when an organization is legal in its inception even its officers cannot go out and pervert that purpose by violating the law, and that rule has been extended from the time the Chief Justice of the Supreme Court of Massachusetts handed down the opinion in 1842 saying that if a union is legal in its inception they cannot go out and pervert the purposes of the organzaton and render it valid.

So, if the delegates went to a convention and met with representatives of the opposing side and they discussed matters that were in violation of the law the defendants would not be bound.

Mr. Drinker: May I be heard now, your Honor please, although it is 12:00 o'clock?

The Court: Yes, sir, this is of the utmost importance.

Mr. Drinker: This is our case. I think perhaps the confusion, if there is any, in connection with this discussion has arisen from the fact that these statements that were made were in a joint convention. The fact is a mere incident. The fact that these statements were made in a convention of any kind is a

mere incident, and the reason is that that is where the
861 miners were authoritatively collected together. But it would be as relevant if it had been a conference between any operator and John P. White in his office, and the operator came to Mr. White and said, "I cannot run my mine unless you organize the mines in the next state." And then if Mr. White sent an organizer down there to unionize them, what was the intent of doing that?

Furthermore, the facts contained in these statements are not what they are offered for, but the thing they are offered for is that they were made and communicated to the miners and to show the influence of the miners thereafter.

In the case of Buchanan vs. United States decided by Judges Hook, Harlan and Van Valkenburgh, 233 Fed. 257, that was a criminal case. There Judge Hook said, "It is the belief of all present that the motives or intents of his act is material."

(Counsel reads further from the opinion.)

The Court: I think I catch your point. I will reserve my decision until you come back.

Thereupon a recess was taken until 2:00 o'clock P. M.

862 October 25th. 1917, 2:00 o'clock, p. m.

Pursuant to adjournment, the court reconvened at 2:00 o'clock, p. m., the parties appearing as before, and the following proceedings were had:

The Court: Now I will ask, just for the purpose of being sure the court understands the situation with reference to the use of these books,—the books from which this last offer was made. What, if any, foundation do you understand was laid for that book?

Mr. Drinker: In the deposition at Indianapolis, in connection with Mr. Green's deposition, he was asked to produce those papers and those books, and he described them as the proceedings of the Joint Conference of the Operators and Miners of this field, and stated that the originals had been sent to the printer.

The Court: Does that apply to all of them?

Mr. Drinker: He stated, in answer to a question of mine, I was just trying to find out, it just occurred to me I ought to point that out to you, he said they were a verbatim report of the proceedings.

The Court: That still would not make them competent without the originals.

Mr. Drinker: He stated that the originals had gone to the printer.

The Court: As to certain ones, but did that answer extend to these books?

Mr. Drinker: I so understand it, and I think that appears from the deposition.

The Court: Assuming that is true, the court has de-
863 termined, not without some hesitation, however, to consider the allegation of this complaint as to these Miners, or as to their association as an entity, and the court feling that he should treat it as an entity, and therefore is dealing with it as such.

Now, if this complaint was against two individuals or more, there would be no question as to the showing of purpose and intent of the organization, and the extent to which that purpose and intent went, insofar as it affects the allegations of the complaint, by showing what they said, and what they did, every word that they said with reference to the matter would be competent and material, insofar as,—it would be competent because it was the words or interpretation of the act by the persons themselves, and material insofar as it affects or relates to the issues made by the pleadings.

I am disposed to treat the opinion of the Court of Appeals, in which they determined the demurrer, adversely to the defendants, as holding that their organization was an entity.

Now, it has developed in the testimony already that the organization acts through and by virtue of certain representatives. It speaks by and through them, and I am inclined to treat their acts as the acts of the entity. Their language is used in connection with the performance of their duty, and reflecting something of the purpose and intent of the entity, or association, as they understand it, and that it go to the jury upon the question of purpose and intent. As to the organization, as to the purposes of the organization, and as to the manner in which the organization was to be used. The objection will be overruled.

864 Mr. Warrum: An exception.

Mr. Drinker: May I ask what is the offer that is in the record?

The Stenographer: Yes, sir,—it is in another note book, and I havent the book here.

Mr. Neal: In order that we may understand exactly the extent of the ruling, are we to understand that the declarations and statements made by the representatives of the United Mine Workers of America, or the statements that are to be introduced to show their intent, or shall it be, or is it the holding of the court, that the statements of these operators, who are antagonistic to them, shall be introduced for the purpose of showing the intent of the United Mine Workers? As I understand it, this is introduced to show the intention of the United Mine Workers of [of] America in this matter. Now, we have no special objection that I know of at this time to the introduction of the statements made by the representatives of the Mine Workers. The thing that we were objecting to, and one of the things that we especially thought might be of injury to us in this case, are the statements made by those antagonistic to the interests of the Mine Workers, to-wit, the statements made by the Operators in these conferences. Now, it might be, we did not understand from the statement of the court as to whether it was his intention to admit the declarations of all the people that were there, or only the declarations and statements made at those conventions by the representatives of the Mine Workers.

The Court: The court is of the opinion in order to admit any of this, it must be done upon the theory suggested
865 by the court, or not at all. If it is admissible at all, all that was said and done there by anybody is admissible.

Mr. Neal: For fear the court misunderstood my remarks, I did not mean to say that we had no intention to object to the statements made by us, or by the Miners.

The Court: I know, I understand that, and I realize the importance of this step. It is a matter that we will sort of have to work out as we go along, because there is not much light on the way, and in order to hold at all that this is admissible, I must hold that these men were acting in a representative capacity there, and selected for the purpose, and for the purpose of meeting with the association, and if that is true, if it was an individual, all that was said and done

by any one is competent, and if any of it is competent all of it is competent.

Mr. Neall: I want the court to understand we do not mean to withdraw our objection.

The Court: Oh, no, no; it was not so understood.

Mr. Drinker: I think the record shows that I offered this, but I will offer it again, this first one: The plaintiffs offer from the proceedings of the Joint Conference of Miners and Operators,—

The Court (interrupting): Just a moment. The court will add, in addition to what I said to you gentlemen, that I am opening up a wide latitude to your gentlemen to show the good faith in every one of these transactions. It is opening up a wide field, I realize that.

Mr. Warrum: We just want to save our exceptions.

Mr. Drinker: The plaintiffs offer from the proceedings of the Joint Conference of Coal Operators and Coal
866 Miners, Exhibit No. 30-b, W. S. G., Notary, from the statement by Mr. Mitchell, the part of it beginning paragraph 2 on page 9, from the words, "Mr. Robbins" through that paragraph. This offer being for the purpose of showing,—this and similar offers to follow, for the purpose of showing the motive on the part of the United Mine Workers in unionizing non-union fields, competitive with those already unionized, and their motive and purpose in preserving as union mines the mines already unionized in the fields which compete with other mines where the unions had been established, or were thought to be established. But not for the purpose of showing the truth of any fact stated, but merely for the purpose of showing the motive of the miners, by means of statements made by the Miners' representatives, and by means of information obtained by them from the Operators, as to the purpose of the Operators which information would necessarily afford the motives and purposes of the miners in connection with their subsequent operation along the lines indicated. This, to be followed by evidence that at a subsequent convention, where the miners were solely represented, they took action officially, through their convention proceedings, and their officers made recommendations for unionizing the non-union fields in question. Presumably, being impelled to that action by the proceedings of the joint conference with the operators, which we are now offering.

Mr. Warrum: Now, we would like to renew our objection,—the defendants separately object as heretofore stated, and add the additional reason that inasfar as this offer to show indicates motive or purpose of these defend-
867 ants, by the utterances of their representatives, the statements offered relate, as we have been advised, to the unionizing of West Virginia, and it must be [inffered] that it does not tend to show any intent of the defendants in the matter relating to plaintiffs' property in this controversy, except by predicating an inference on an inference, which as I understand is never proper.

The Court: This was not confined to this field. This field was only an incident to the general plan, as it is alleged; that the court's ruling in part as made, is predicated upon the statement of counsel, or the understanding of the position of counsel, as he has stated it, and the objection will be overruled.

Mr. Warrum: An exception.

Mr. Hull (reading): "Mr. Robbins has spoken of reductions in the Meyersdale Field of Pennsylvania, and of the proposed reductions in the Fairmont region of West Virginia. I cannot agree that coal is being mined in the Meyersdale Field for 55 cents a ton. It is true that the operators there are making a rate of 55 cents a ton but it is just as true that the miners are resisting, and they are right. Every year that we have met in these conventions we have heard the statement made that the reason the operators represented here could not comply with the scale of wages proposed with the miners was the fact that they were meeting an unfair competition from the Fairmount District of West Virginia. And now it is said that the Fairmount operators propose a reduction of 25 cents a ton. Why that is more than the operators told us they got altogether. Why do the operators of the Fairmount District propose to reduce the rate
868 of mining 25 cents a ton? Why, even, do they talk about it? Is it because of competition from Pittsburgh, Ohio, Indiana or Illinois? Against whom do they sell their coal? In competition with whom is their coal sold? Not with Meyersdale. I see that over a million tons of West Virginia coal, a considerable part from the Fairmount Field, went to Chicago last year. Certainly if trade conditions are such that reductions must be made, it is not because they believe that they have no advantage over their conpetitors in the Pittsburg District or other parts of this competitive field."

Mr. Drinker: We next offer, from the same volume, the statement by Mr. W. S. Bogle, on the scale committee, the third paragraph, and so much of page 6,—no, I will offer that again. The third paragraph on page 12.

Mr. Warrum: To the offer the defendants separately and severally renew their objection for the reasons previously given, and reserve their exception.

The Court: Objection overruled.

Mr. Warrum: Exception.

Mr. Hull (reading): "Mr. Mitchell belittles West Virginia competition. He has always done so. Outside competition at all times has been belittled. He says the operators have, every time they have held a convention, brought in this West Virginia bugaboo. It is true that we have. Furthermore, circumstances which favored us in the last few years also favored West Virginia. She has not had so much difficulty in marketing her product as she had when these conventions were first held. For the last four months
869 she has been confronted with a loss of market, with an inability to place her product—not the product of four or five years ago, but a largely increased product—and already she is knocking at our doors, already she is coming into our markets and taking contracts for the ensuing year in competition with each one of the four states in this movement, at prices which it is impossible for us; under our present scale, to meet. It is a reality, gentlemen, it is not a bugaboo; it is not so that we can agree to pay you our present scale and then go back and try to meet the conditions and have our mines lie idle."

Mr. Drinker: From the same volume, on pages 17 and 18, the statement by Mr. H. L. Chapman, the bottom of paragraph 17, through the top, on page 18.

Mr. Hull: Beginning with the last paragraph on page 17,—

Mr. Warrum (interrupting: To which the defendants separately renew their objection, and for the additional reason that there is nothing to indicate who Mr. Chapman was, whether an operator or a miner, and the introduction of any evidence in their form is improper.

Mr. Drinker: When we got through, I was going to offer the page showing who each of these gentlemen were.

The Court: Objection overruled.

Mr. Warrum: An exception.

The Court: That goes to the order of proof, with the right of the defendants to move to strike, in the event that they fail to show that he was connected.

Mr. Hull (reading): "If these gentlemen could control the entire products of the mines of this country, the proposition would be a very different one from what it is
870 today. But what are we confronted with today in Pennsylvania and West Virginia? We find lower prices being made than the competitive prices have been heretofore. In some parts of Pennsylvania and West Virginia they have never been on a parallel with the prices that have been paid in Western Pennsylvania, Ohio, Indiana and Illinois. It was said by my friend Mr. Robbins that reductions have already taken place in some of the Pennsylvania fields that are not in this organization. And the great Pocahontas field of West Virginia, with its great tributary fields, are proposing a reduction, and some of them have posted notices that this reduction will take place the first of next month."

Mr. Drinker: We next offer page 26, 27, the statements by Messrs. Robbins and Chapman.

Mr. Warrum: The defendants separately renew their objection.

The Court: Objection overruled.

Mr. Warrum: An exception.

Mr. Hull (reading):

"Mr. Robbins: I am very glad there is evidence here that I am just as fair in keeping operators out as I am in keeping miners out. I submit that this is a most important question, and one that a majority of this convention cannot determine. We have stated here that we would give the scale committee facts and figures regarding our business that we do not care to give in open convention. Are we going to have our competitors from other states in that meeting in order that we may unbosom ourselves to them? Why, it is preposterous! It is perfectly absurd! We would not submit to it for a moment. You would be putting in the scale committee a
871 barrier to free action.

Mr. Chapman: The state of Ohio occupies precisely the same position the state of Pennsylvania does. This question in several former conventions was discussed in open con-

vention and regarded as a principal and important question affecting the scale of the four states. Until the miners' organization is able to put West Virginia in line, and any other outside competitive field in line, the operators of the four competitive states do not propose to have additional partners in this arrangement without their consent."

Mr. Drinker: We next offer the statement by Mr. Bogle on page 41, at the bottom of the page.

Mr. Warrum: The defendants again object separately, for the reasons previously given.

The Court: Objection overruled.

Mr. Warrum: An exception.

Mr. Hull (reading):

"Mr. Bogle": Referring to the matter that was under discussion before this question came up, it seems there has been considerable surprise manifested by the miners as to why, if Kanawha and these other districts did not interest us last year, they should under an increased scale interest us this year. Even at the advanced scale Kanawha, Fairmount and other places are still considerably under the scale paid in this competitive field, and it is a fact beyond contradiction that coal can be produced in those districts cheaper than it can be in the districts comprised in this movement. For the past three or four years it has been a comparatively easy matter for all of these districts to market their coal. There was no particular interest last year in Kanawha and some of
872 these other districts chasing into markets that did not geographically belong to them in order to sell their coal. That situation is changed now. They cannot find a market for their coal without going in and taking markets that do not naturally or geographically belong to them. Now they are forced to do that in order to keep their mines going. They know it is a question of the survival of the fittest; they know they have the advantage of every man in this competitive movement and that they can, when it comes to a showdown, make prices that will knock us out of these markets. That is why the operators here are asking relief from that position."

Mr. Drinker: On page 43, the statement by Mr. Chapman, four paragraphs.

Mr. Warrum: To which the defendants renew their objection.

The Court: Objection overruled.

Mr. Warrum: An exception.

Mr. Hull (reading):

"Mr. Chapman: I believe I can give you some reasons why this proposition should be adopted. Those reasons were fully stated in convention the other day; but in addition to the reasons stated there, I desire to state some reasons locally, from my own district, why we think that a reduction should take place. Within the past thirty days one of the largest contracts for coal supplied from our field has gone to West Virginia, on the line of the C. H. & D. Railway, at Lima, Ohio, some 120,000 tons of coal annually. This was taken by West Virginia people at such prices that it would bankrupt any firm in our county that would take the contract and
873 furnish it at the prices those people furnished it. Our county has had the contract for several years, but now it is gone.

"Another reason, in addition to that, is that a railroad, the Detroit Southern, that enters our field, is buying its supply of coal from West Virginia, bringing the coal over the Norfolk & Western road, a portion of it to Ironton and a portion of it to Waverly, and there turning it over to their connections. These gentlemen asked me to make them a proposition within the past two weeks. At the price I made them, I would simply have got the royalty on my coal and nothing more. They laughed at it, and said they were getting coal at much less figures than that. The C. H. & D. road, which is a large owner of one of the largest properties in our county, is buying a portion of their coal from West Virginia, because they can get it for less money than we can give it to them. Heretofore they have taken all their coal from our county.

"These are some of the reasons why we think the time has arrived, in order to enable our field to stay in the market, when there should be a reduction in the price. The same is true in eastern Ohio, central Ohio and the Hocking Valley. They have lost a large number of contracts already, and we feel that the time has arrived when, in keeping with all the other reductions that are going on in the industries of the country, it is only just and right and proper that a reduction should take place in the price of the digging of coal.

"As much as I regret it, and I know the other operators of our state regret it as well, this reduction is absolutely neces-

sary if we are to keep our mines running; it is a matter
874 over which we have no control and can have no control. We are the creatures of circumstances. We must meet these exigencies as they arrive."

Mr. Drinker: On page 46, we offer all of the statement by Mr. Robbins, and the first paragraph of the statement of Mr. Bogle, which immediately follows Mr. Robbins' statement.

Mr. Warrum: To which the defendants separately object for the reasons previously given.

The Court: Objection overruled.

Mr. Warrum: An exception.

Mr. Hull (reading): "Mr. Robbins: As far as the coke interests on the Klondike and the Connellsville districts are concerned, the scale has already been reduced. In the Meyersdale District the same thing is true. We know what we have to meet. In the Pocahontas Field we know what reductions are going to be asked. We know also that there is going to be a reduction in the Fairmount Field, and we expect to meet these reductions.

"Mr. Bogle: In regard to this guarantee that Mr. Haskins asks for, I wish to ask him if he has not the same guarantee he has had ever since this Interstate movement has been in existence. Is there any spot where the mine workers have extended to their friends in the competitive field as favorable conditions as they have made to their competitors? There has never been a movement since this movement was in effect when West Virginia, Kanawha, and these other places have not been on lower wages than the competitive districts have
enjoyed. Notwithstanding that, the operators of these
875 competitive districts have stood the handicap and have gone out and secured trade. Now there has come a time when that handicap has become too onerous for them to stand. We have always gone out and gotten your men work; we have always fought for our markets; we have always fought for your interests as well as for our own."

Mr. Drinker: I next offer on page 64, Mr. Robbins' statement, the second paragraph, through that and the top paragraph of page 65.

Mr. Warrum: The same objection.

The Court: Objection overruled.

Mr. Warrum: An exception.

Mr. Hull (reading): "That reductions have been made, are being made, and will be mare in competitive fields, that are not controlled by you, is beyond question. You all know it. We have stood up here year after year and protested against unfair treatment by you in not meeting competitive conditions. More hours of labor, lower wages, lower deadwork, all conditions that affect the cost of coal are being given—no, not given, you cannot help yourselves—but the operators in other fields who have not recognized any demands, of labor, as they have been recognized by the operators of this competitive field, have had these advantages. We have protested against it; we have protested against other unfair and unequal conditions year after year, and you have promised, from the first meeting in Chicago, that they would be brought up, and you have failed to redeem your promise. Now, in the face of all this, with your knowledge of it, there have been reductions in those fields.

Now you say you are not going to meet them, and I say
876 for one, as far as I am concerned, I shall never sign a scale except upon these conditions. It has come to the parting of the ways, as far as I am concerned, and as far as my companies are concerned. It has come to the point where, in justice to the people who have put their money in the Company, whose report you have heard, that we shall stand for fairness and justice. It has come to a point that when conditions of the country require a reduction you should be men enough to meet the situation and not get behind such absurd and unfair statements as are made here. It has come to the time when you yourselves are just as vitally interested in the Pittsburg District as we are. What have you done? You attempted to bring up the coking price. With what result? Let me read the conditions in the Klondike field, which adjoins us, the same coal practically as ours, our coal running into it, and now during the depressed times in the Pittsburg District, when you are not working one-third of the time, and when our output during the last three months has gone down sixty to seventy per cent, that coal is coming in there and taking the trade of the operators who have been fair enough to stand out there with you and attempt to get a price, who have made the price what it is today—and you stand there idle and are willing to let them take all the trade, if need be, and tie our hands and not permit us to meet the conditions. Do you think we are going to sign a scale on any such basis as that? Never, never.

"Here is the statement:

"The price for mining coal all through the Klondike field is not any better than 25 cents per ton mine-run in room work,

and the miners get 44 cents per wagon, and in the head-
877 ings 54 cents per wagon, the cubic capacity of these wagons is very similar to ours, which carry about two tons mine-run. It is practically the Connellsville scale of prices which prevail, but there is a marked difference between the conditions of the fields. The Klondike produces a good strong coal and presents an excellent appearance on the railroad cars, and is being shipped into our markets all over. The organizers who have recently been in this region have not been able to do anything with the men. They regard the coal as being practically the river coal vein, and appear to think the thick coal prices ought to prevail in that region, but they are unable to establish it.

"We can go along the line where the Fairmount District has sold coal in Wheeling recently, for the Wheeling Gas Company, for 38 cents per ton below their last year's price. We didn't suffer as much last year. Why? Because they had what they could do and therefore got as high a price as they could; but whenever it came to a necessity for finding a market for their coal they used the weapons that you have permitted them to have but have denied us. Is that fair? Are you decent, honorable, fair men, that you will stand and try to place upon people who are giving you work and making those conditions and paying those prices for you? Do you think the public for one minute will stand for such a proposition as that? Do you think you are going to get, as you got in the anthracite strike, help from the public? Never. The public will never stand for such a condition as that. If you want arbitration we will have arbitration. Let that go out to the
world, let it go out to the public that we are offering
878 you arbitration. We are willing to give it to you if you will dare meet the conditions."

Mr. Drinker: We next offer on page 75, the statement by Mr. Chapman, at the bottom of page 75, and the top of page 76.

Mr. Warrum: To which the defendants separately renew their objection.

The Court: The same ruling.

Mr. Warrum: An exception.

Mr. Hull (reading): "Now as to the prices at the present time and the prices of one year ago, and the prices at which the new contracts that are being taken, that have been taken, and what are the prospects in the future for the operators of this competitive field in order to enable them to give you employment. In my own field in southern Ohio the contracts

that have expired our people have offered for renewal at a cut in price of from 25 to 30 cents per ton, and in every instance they have lost the contracts that have expired up to the present time, and they have gone to West Virginia, the coal coming a part of it from the Chesapeake & Ohio and a portion of it from the Norfolk & Western. If you gentlemen, the miners of Ohio, Pennsylvania and this entire competitive field could take a train at the city of Columbus now and ride into the city of Cincinnati over the Big Four Railway you would see every sidetrack almost on that line of railway that enters the factories, the electric light plants, the water works plants, and everything of that kind, crowded with the C. & O. cars of West Virginia coal, formerly furnished by Ohio. If you take the road which goes from the Hocking Valley District into the city of Toledo you will find the tracks filled with Norfolk &
879 Western cars loaded with West Virginia coal. The railway that enters our field, that was built there to take the coal from that field, today is being supplied with its fuel at a junction point in the Siota Valley on the Norfolk & Western with West Virginia coal at less prices than we can give it to them and get cost for our coal and give away the royalty."

Mr. Drinker: Now on page 77, the last paragraph of the statement by Mr. Chapman.

Mr. Warrum: We renew our objection.

The Court: Same ruling.

Mr. Warrum: Exception noted.

Mr. Hull (reading): "If you gentlemen were able to control the output of coal the situation in these four states and in this competitive field would be different, if you were able to control it in the fields that have been mentioned. But, regret it as much as you will or as much as we do the necessity of our asking you to make the reduction that we have, it cannot be helped until the conditions are changed everywhere. And as the representative of Ohio I desire to say to you gentlemen in all candor and in all frankness, with a desire if possible to continue this movement, not only this year, but for years to come and have it extend to other trades and organizations, that we cannot sign the scale proposed by you, which is the present scale. I thank you, gentlemen, for your kind attention."

Mr. Drinker: On page 96, from the statement at the top of the page by Mr. Bent, an Illinois Operator.

Mr. Warrum: We make the same objection.

The Court: The same ruling.

880 Mr. Warrum: An exception.

Mr. Hull (reading): "Mr. Bent: If that is true it is not because of, but in spite of the things of which we complain. There has been a most extraordinary development of home markets. We are generally dependent upon competitive markets. If this had been true of the past few years there would have been a loss instead of a gain. I dare say that of Chicago and of the Northwest. There has been an extraordinary development right in the State of Illinois and in the markets of the South and Southwest, but we have not held our own in the Northwest. When this development ceases Illinois cannot and will not bear the destruction of her products under the mine-run system. In one way or another that thing will be eliminated."

Mr. Drinker: Now, I offer for the purpose of identifying the different speakers from whose statements the extracts have been made, so portion of the same book, the same volume, in connection with the same convention, as appear on pages 5 and 6, and as show, under the list of joint scale committee, as appointed, and as it there shows, from operators in Illinois, E. T. Bent; Indiana operators, W. S. Bogle; Pennsylvania operators, Frank L. Robbins; Ohio operators, H. L. Chapman, and from page 3, so much as states that Mr. John Mitchell was elected temporary chairman. Do you want me to prove who he was?

Mr. Warrum: No.

Mr. Drinker: I wanted to find where it states it. I will let that go, that is sufficient. I made an offer there of the names.

Mr. Warrum: You read them in, and we didn't object.

881 Mr. Drinker: I meant to offer so much of that list as gave those people's names, and the heading.

The Court: Very well.

Mr. Drinker: Now, we offer from the same volume, on page 119,—

The Court (interrupting): Does the offer show the identification of the names of all the people that you have read statements of?

Mr. Drinker: Yes, your Honor.

The Court: Very well.

Mr. Drinker: I offer from the same volume on page 119, from the recommendation of the national officers, issued in accordance with the instructions of the special convention, the paragraph on page 118, as follows,—the first five lines on page 118, and the paragraph on page 119, beginning with the words, "If a strike", down to the words, "Machine mining", and the close of it on page 121, showing "Fraternity submitted", and signed by the parties, "John Mitchell, National President. T. L. Lewis, National Vice President. W. B. Wilson, National Secretary-Treasurer."

Mr. Warrum: The defendants renew their same objection.

The Court: Objection overruled.

Mr. Warrum: An exception.

The Court: I wish you would follow the suggesiton to mark this with a pencil, as it would be a great healp to the defendants.

Mr. Drinker: I will mark it, and give them a list.

Mr. Hull (reading): "Recommendations of the National Officers Issued in Accordance with the Instructions of the Special Convention.

882 "Local secretaries are instructed to read these recommendations to the members before the vote is taken.

"Indianapolis, Ind., March 9, 1904.

"To the Members of the Local Unions of the United Mine Workers of America,—Greeting:

* * * * * * *

"If a strike is inaugurated we have no assurance that we can control the situation in West Virginia outside of the Kanawha field and a few operations on the Baltimore & Ohio road. Neither can the Irwin, Connellsville nor Klondike fields in Pennsylvania be depended upon to cease work if a general suspension is declared. On the contrary, the indications are that they will continue to work, and while such action on their part might not materially injure us in the face of advancing prices, it would be a serious menace to our success when the market is on the decline. Men who will strike and suffer all the hardships of a long struggle when they know that others are striking also, will hesitate, weaken, and finally return to work when day after day coal is being produced and shipped past their own doors into the markets which they formerly supplied. With large numbers of men in Western Pennsyl-

vania unfamiliar with the principles of trades unionism it could not be depended upon to remain solid during a long conflict under conditions of this kind. If our forces in that field are defeated and lower wages and worse conditions are forced upon them it would be impossible for the miners in the other fields to maintain even the rates that are now being offered, and, with a weakened organization we would be confronted with the possibility that some of the operators may seek to widen the differential between pick and machine mining.

* * * * * * *

883 "Fraternally submitted,
JOHN MITCHELL,
National President.
T. L. LEWIS,
National Vice President.
W. B. WILSON,
National Secretary Treasurer."

Mr. Drinker: I next offer from the convention proceedings of 1904, the miners convention proceedings of 1904, being Exhibit 29-b, page 138, to 139, resolution No. 7, and the adoption of such resolution by the convention.

Mr. Warrum: I understand that this is from the miners' convention. If it is a resolution adopted, we have no objection to it; if it is preliminary, we do object.

884 Mr. Hull (reading):

"Resolution No. 7.

To the Members of Local Union No. 31, U. M. W. of A., of Craig, Ind. Ter., District 21:

We, your Committee on Resolutions, submit the following for your approval or disapproval:

In compliance with the order to send delegates to Indianapolis, Ind., to represent Local Union No. 31 in National Convention, we herewith comply with the following resolutions:"

Mr. Warrum (interrupting): If the Court will allow me to interrupt the reading. This purports to be a resolution of some local, and we desire to object to it. I don't know just what it is.

Mr. Drinker: It is a resolution of a local that was offered and approved by the Convention.

The Court: That would make it a resolution of the Convention. The objection will be overruled.

Mr. Warrum: An exception.

Mr. Drinker: That is what I think it is. I don't want to make a statement that is not borne out by the book.

Mr. Hull (reading):

"Whereas, Indomitable energy, the prompt attention and the wisdom and capability and the successful attributes displayed in reaching results, the unselfishness of purpose, the honesty of policy in accomplishing and reaching ends, aiming at the elevation and betterment of the U. M. W. of A., therefore be it

Resolved, That we, the members of L. U. No. 31 of Craig, Ind. Ter., in body assembled, on this the 22nd day of December, 1903, do approve and endorse the action of our National Officers and firmly believe that the best interests of the craft will be furthered by a continuance of the same. With hearty approval we offer our sincere thanks for their work of the past and pray that a wise Providence guide them to successful ends in the future; and be it further

885

Resolved, That we entirely approve of the action of our National Officers in sending organizers to spread the propaganda of the United Mine Workers of America to countries on the outside of our national jurisdiction; and be it further

Resolved, That we approve of the National Board using the funds of the U. M. W. of A. in spreading the teachings of our craft, and conclude that the benefits derived will justify the outlay of funds; and be it further

Resolved, That in strict compliance with our obligations and teacing we accord a hearty approval to our National Board on its action in regard to District No. 15, strike, now on, in Colorad, and whatever action taken by the National that in their judgment is necessary to the successful ending in the elevating of the craft in District No. 15 meets our entire approval, for which we pledge our unqualified support, as our knowledge of the field of southern Colorado in the event of an unsuccessful issue of the trouble now pending would work almost unsurmountable and incalculable damage to District No. 21, as it would be an unjust competitor in the same commercial field and could with very little effort undersell and supersede us in the Oklahoma and southwestern Kansas markets. We, as a body, recommend that our National Officers

take some action in regard to State and National legis-
886 lation for the safety and welfare, health and comfort of our craft; and be it further

Resolved, That the National recommend to the several districts to take definite action and place the same restriction on miners of coal in strip pits, bank robbers, or coal mined in any manner that is placed in competition with coal mined by United Mine Worwers.

WM. L. ANDERSON,
JOHN L. FAHY,
JOHN CONROY,
Committee on Resolutions.

I. N. Day, Pres.
A. Bane, Rec. Sec'ty.

Secretary Ryan: This appears to be a document submitted to a local union. If the writer of it is here he may be able to explain it better than the committee.

The committee concurred in the resolution.

On motion the report of the committee was approved."

Mr. Drinker: We next offer from the Miners Convention proceedings of 1905, in the same volume as that from which the last extract was taken—the same bound volume, but a different convention from the report of President Mitchell on page 18, next to the last paragraph on the page, beginning with the words, "For many years" through that paragraph.

The Court: What convention is that?

Mr. Drinker: The 1905 convention of the Miners.

Mr. Hull (reading): "For many years special efforts have been made and enormous sums of money have been expended to organize the miners of West Virginia. Two years ago we succeeded in making an agreement with the operators in the Kanawha field. Last spring this
887 agreement was extended so as to include the operators and miners in the Cabin Creek district. It was well understood when the agreement was made—and the records of the convention confirm the understanding—that all men employed in or around the mines were to become members of our organization and a [tsipulated] amount for dues was to be deducted monthly from their earnings."

Mr. Warrum: I believe the defendants will move to strike that from the record as incompetent and immaterial it doesn't

support any contention of the plaintiffs under the issues in this case.

The Court: The motion will be denied.

Mr. Warrum: An exception.

Mr. Drinker: Now I offer from the joint proceedings of 1906, the proceedings of the miners and operators for 1906, a statement by President Mitchell on pages 6 ond 7.

Mr. Warrum: To which the defendants renew the objection formerly offered. It is not necessary to identify the objection?

The Court: Just the last one.

Mr. Warrum: No, the objection heretofore made to the reading from the joint conferences.

The Court: Yes, sir, objection will be overruled.

Mr. Warrum: An exception.

Mr. Hull (reading): "Mr. Mitchell: In support of this motion I wish to make a few remarks. This is not the first time that the operators and miners of the Central Competitive Coal Field have departed from the rule which limits participation in this conference to the four districts which have been accorded representation here. A few years ago the
888 operators and miners of Central Pennsylvania came to Indianapolis, made application for a seat in our joint conference, and were accorded that right. Mr. Robinson, of the Buffalo, Rochester & Pittsburg Coal Company, of Central Pennsylvania, was not only admitted to the conference, but served for a short time on the Scale Committee. So that in asking that the scope of our work be extended so as to include the miners and operators of the Southwestern states we are establishing no new precedent. But, aside from that it seems to me that it would be to our mutual advantage if we can bring into this conference the representative operators and miners of not only the Southwestern states, but the operators and miners of every coal-producing state in the Union.

These states west of the Mississippi River—and I want to speak particularly of Iowa—are competitive with coal produced in the states east of the Mississippi River. Coal mined in Pennsylvania, in Ohio, in Indiana and in Illinois is sold in the same market as the coal produced in all of these states seeking admission here. There can be no doubt in the minds of either operators or miners that it is desirable to establish a

wage scale that will be practically the same in every state and in every territory where coal is mined and sold in a common market. And it seems to me that incalculable benefit will accrue to the coal industry if we can bring into closer affiliation and harmonious co-operation at least the men who own the mines of these various states, to say nothing of the benefits that will come from bringing into co-operation the men who work in the mines. The trouble too often has been that
889 you gentlemen have not worked in harmony one with the other, and too often we have had to suffer because of friction among the men who employ us. I trust, Mr. Chairman, that the proposition to include these Southwestern states, whose operators and miners are here, will be adopted, and that we shall hereafter invite to meet us the miners and operators of every state where the men are organized and where coal is mined and meets your product in competition."

Mr. Drinker: In the same volume on page 9, a statement by Mr. W. D. Wilson, about two-thirds of the paragraph, to the words, "In this joint conference."

Mr. Warrum: To which the defendants renew their objection.

The Court: Objection overruled.

Mr. Warrum: An exception.

Mr. Hull (reading): "Mr. W. D. Wilson: Mr. Robbins has stated that this proposition comes up in every convention. It is true it comes up in every convention, but it has come up in every convention because it is right, and no proposition is every settled until it is settled right. If I understand the principle upon which this movement is based, it is to bring into the joint conference those operators and those miners whose competitive business is closely related to each other; and in asking that the operators and miners of the Southwestern District be admitted to this conference, we are simply carrying out that principle. The coal mined in Western Pennsylvania comes in immediate and direct competition with Ohio; that mined in Ohio, as well as that in Pennsylvania, comes in competition with Indiana and Illinois; that
890 mined in Illinois comes in competition with Iowa; that mined in Iowa comes in competition with Missouri, and coal mined in Missouri comes in competition with Kansas, Arkansas and the Indian Territory. They are all related to one another; they are all competitors with one another, and it is but just and fair that each of these fields should have a representation in the joint conference that sets a base for

the prices of the ensuing year. This is the first conference that is held. Whatever wages are agreed upon here, whether it is an increase in wages, a decrease in wages, improved conditions or otherwise, it sets the pace for other districts, and those other districts have no voice in saying what that price shall be. In order to avoid that condition of affairs, in order to give justice to the operators and miners in other fields not represented here at the present time, we ask you, as a matter of fairness and justice, to permit those whose operators and miners are represented here, to participate in this joint conference."

Mr. Drinker: On page 16, in the same volume, the statement by Mr. Robbins, the second paragraph, the two sentences as marked.

Mr. Warrum: Same objection.

The Court: Same ruling.

Mr. Warrum: An exception.

Mr. Hull (reading): "I want to speak for a few minutes particularly from the standpoint of the Pittsburg District. Our competition from unorganized fields has constantly increased."

Mr. Drinker: And on page 111 of the same volume,
891 from the middle of the page, the passage marked.

Mr. Warrum: I make the same objection.

The Court: Same ruling.

Mr. Warrum: An exception.

Mr. Hull (reading): "The following amendments were offered as substitutes in the order given: (1) That because of the failure in this interstate movement to change the conditions of a ten-hour day in the unorganized [fields] as agreed to in the Chicago convention, that we return to a ten-hour day."

Mr. Drinker: And on page 214, the same volume, the statement by Mr. Penna, the last paragraph on page 214, and through the first complete paragraph on page 215.

Mr. Warrum: The defendants make the same objection.

The Court: The same ruling.

Mr. Warrum: Exception.

Mr. Hull (reading): "It occurs to me if there is to be a demand for an advance in wages it is being made, not only at the wrong time, but in the wrong place. Why should this little competitive district be made the center for continual demands? Is it because the employers of this competitive field have always favored peace? Is it because the employers of this competitive field have always favored miners' unions? Is it because they have always been ready and willing and glad to meet you? Is it because they have given you more advances in wages, but the check-off and the eight-hour day? You have got these things out of the Joint Conventions, gentlemen, and the same employers who gave them to you gladly when they were able to do so, are the men who today protest seriously and sincerely that it is not
892 the time or the place to demand an advance in wages. Is it because we are always meeting, you and you cannot reach the other people? Why not go to some of those who are not as high as the states here represented and bring them up first. We are willing to keep in the lead; we are willing to set the pace; we are willing to pay higher wages than any other part; and we are willing to meet with you and treat with you, and willing to keep the peace, but we are not willing that you should come and hold us up at all times when you are unable to catch the other people and bring them approximately to where we are.

It is no joke, and it is not foolishness when we talk about other fields shipping coal in to this market—not by any means. Coal is shipped into Indiana's natural markets. I presume [their] are markets natural to every coal field, markets contiguous to those coal fields, and Indiana has such markets as well as other districts. Those people of whom we speak come in here and sell the coal and get the money. There isn't any foolishness about that; there isn't any sentiment. They get the trade and they get the money. I want to say to you now there were contracts made in Indiana in the recent past and they are being made now, for coal mined outside of this state. Those contracts are made with so much indifference to your ability or your willingness to bring up our competitors that they ignore any clause providing for strikes or mining trouble."

893 Mr. Drinker: Now, on page 226, the statement by Mr. Chapman, the first four sentences of the same volume.

Mr. Warrum: The defendants wish to renew their objection previously made.

The Court: The objection is overruled.

Mr. Warrum: An exception.

Mr. Hull (reading): "If you gentlemen upon that side of the house will provide means by which you can stop the competition from West Virginia, from Kentucky and from Tennessee coming into the city of Indianapolis and into Ohio cities and taking the trade of the Indiana and Ohio miners, then there would be some consistency in this thing. But there is no remedy proposed. This competition is going on, and it will continue to go on. And if the operators have to pay higher prices for the production of their coal in these states it means the closing, the shutting up, the destroying of the value of many of the properties."

Mr. Drinker: I offer from the same volume, on page 135 to 140, being the list of the delegates to the convention, with a list of the operators and miners, so much of that list as shows that John Mitchell was President of the United Mine Workers, and W. B. Wilson was an officer of the Miners' organization, Mr. Robbins, a Pennsylvania operator, and Mr. Penna, one of the operators, and Mr. Chapman, an operator from Ohio.

Now, we offer from the convention proceedings of the miners of 1906, pages 214 and 216, 217 and 218, the passages marked, showing the recommendations of the scale committee, and the action in amending and adopting that resolu-
894 tion by the convention. I don't care about the amendment, but that is the only way I knew to show that it was adopted, by showing the resolution with the amendment made, and the final adoption of the amended resolution.

Mr. Warrum: Is this the report of the scale committee?

Mr. Drinker: No, sir, the report of the miner's scale committee to the convention. It is on pages 214, 216, 217 and 218.

Mr. Hull (reading): "Delegate John P. White, president of District 13, for the Scale Committee, reported as follows:

Indianapolis, Ind., Jan. 22, 1906.

"We, your Committee on Scale, after careful consideration, submit the following report:

"1. We demand that Districts 13, 14, 21, 24 and 25 be admitted to the interstate joint conference; also the admission of all outlying districts whose operators are willing to participate."

"President Mitchell—You have heard the report of the Scale Committee. What is your Pleasure?

Vice-President Lewis—I move that the report be accepted and that we take it up [seriatim] for action. Seconded.

Delegate J. H. Walker—I move that consideration of the report of the Scale Committee be deferred until nine o'clock tomorrow morning. Seconded.

Vice-President Lewis—That is entirely satisfactory to me.

The motion to defer was carried."

"President Mitchell—Consideration of the report of
895 the Scale Committee was made a special order of business for nine o'clock this morning. The proposed scale will be considered [seriatim], as provided for in the motion of yesterday.

"Section 1. We demand that District 13, 14, 21, 24 and 25 be admitted to the interstate joint conference; also the admission of all outlying districts whose operators are willing to participate.'

It was moved and seconded that Section 1 be adopted."

"Delegate Williams moved that the section be amended by inserting Districts 1, 7 and 9, and striking out "also the admission of all outlying districts whose operators are willing to participate." Seconded."

"Secretary Wilson—As a substitute for the amendment, I move that the first section of the Scale Committee's report be presented to the joint convention before the remainder is presented, and if the operators fail to agree to it, that the joint conference be adjourned and the action reported to our own convention. Seconded.

The amendment was discussed by Delegates Richardson (Kansas), McKay (Pennsylvania), White (Iowa), and Secretary Wilson.

The substitute offered by Secretary Wilson was then voted on and adopted.

Section 1, of the committee's report, as amended, was then adopted."

Mr. Drinker: I offer from the same volume, page 183, the presentation of Resolution No. 42, and its adoption by the convention.

Mr. Hull (reading): "Resolution No. 42.

896 "The members of Local Union No. 230, District 22, do hereby authorize our delegate to offer the following resolutions at the Seventeenth Annual Convention of the U. M. W. of A.:

"Whereas, Owing to the southern part of Wyoming being entirely unorganized, and this fact greatly affecting the conditions of the organized camps in the northern part of the State.

"Resolved, That we request the national board to immediately take up the matter of organizing the coal camps along the U. P. R. R. in Wyoming; and, be it further

"Resolved, That we are in favor of strict enforcement of the Chinese exclusion act.

"ALBERT THOMPSON,
"GEORGE GEBO,
"J. L. RICE.

"Committee on Resolutions. Committee on Resolutions.

"The committee recommended concurrence in the resolution.

"Delegate Ruscavage—I move that the report of the Committee be concurred in. Seconded."

"The motion to concur in the report of the committee was then carried."

Mr. Drinker: And we offer from the miners' convention of 1907, page 288, the statement by Delegate Green, beginning with the top paragraph on the page, the first three sentences, to the word "necessary for us to have."

Mr. Warrum. To which the defendants severally object, for the reasons given this morning. These are matters entering into debate and discussion in a deliberate
897 body, known as the miners' annual convention.

The Court: This presents another different line of inquiry.

Mr. Drinker: The same thing, only instead of being made in a joint conference, it was made in a miners' convention.

The Court: The court will hold to its ruling this noon, and it will all go in. The objection will be overruled.

Mr. Warrum: An exception.

Mr. Hull (reading): "Now, something must be done; it is absolutely necessary to protect us against the competition that comes from the unorganized fields east of us. I believe a National movement would have induced West Virginia to become organized, and that, like other districts in 1897, it would have meant the organizing of that field. That would have brought us the protection we so richly deserve, and that is so absolutely necessary for us to have."

Mr. Drinker: From the same volume, page 297, the statement by Delegate Feeham, the third to the last sentence on the page, from the words "The 30,000" to the words "organization".

Mr. Warrum: The defendants separately make the same objection.

The Court: Objection overruled.

Mr. Warrum: An exception.

Mr. Drinker: This 1907 miners' convention proceedings is exhibit 29-d.

Mr. Warrum: If the court please, I think we ought to object to them identifying these exhibits as Exhibit
898 29-d, as they were never attached to any deposition as an exhibit, and are not presented here as exhibits, and it might cause an improper impression to arise that they were introduced and accepted.

The Court: They were referred to in the deposition of Secretary Green?

Mr. Warrum: Yes, but not attached.

Mr. Drinker: The order of the court ordered them to bring the books.

The Court: I would be very glad to join you in anything that would prevent any confusion. Of course I assume that whatever exhibits these are, you will have to avoid the particular letters and numbers. Otherwise where we might understand it, the record might be confused. I think by avoiding those particular letters that it can be done.

Mr. Warrum: In every instance they have spoken of them as exhibits, and have also identified them as miners conventions or a conference convention, and by the volume,

etc., and they are perfectly identified without referring to any exhibit numbers.

The Court: The only thing is, there is nothing to connect them with the deposition except the identification.

Mr. Warrum: Not that I know of, and I dont think that does.

The Court: It probably does, and that is probably the purpose.

Mr. Hull (reading): "The 30,000 organized miners in District No. 5 have as neighbors thousands upon thousands of unorganized miners in the Irwin field and the Con-
899 nellsville region who are a constant menace to our organization."

Mr. Drinker: In connection with the offer of extracts before the last, I wish to add that that was offered as part of the statement by Delegate Green. I thought that I so stated, but one of my colleagues told me I forgot that.

Now, we offer from the joint convention proceedings for the year 1908, being Exhibit No. 30-d, W. S. G., from the statement of John H. Jones of Pennsylvania, on page 58, beginning in the middle of the paragraph on the top of the page "So, gentlemen" on down through Mr. Jones' statement.

Mr. Warrum. The defendants renew the objection to the form of the offer, to introduce extracts from the joint conference, and for all the reasons heretofore given.

The Court: Objection overruled.

Mr. Warrum: Note an exception.

Mr. Hull: (reading): "So gentlemen, we want you miners to agree upon and advocate a scale for two years, and if you want to make it three I don't suppose the operators would object; but make it two years and give us a chance to do something, and give you a chance in the interval to settle your differences with the people who do not meet with you, who enjoy conditions at the present time you are not enjoying. You want to point your guns at your enemies. You want to point your guns at the operators who in the past have not proved by their actions that they are friends of yours or of organized labor. This is the thing you should do in the next two years. Do not point them at your friends; turn them on the men who are not your friends.

"At the present time there is coal being mined in
900 non-union districts, and it is encroaching upon our markets; even in places where they have differences between them they are dropping them and taking away the contracts from the union fields. The question has been asked, why haven't we had this state of affairs during the past two years? The reason is, we have had very prosperous times, and there was plenty of trade for all. This is not the case at the present time; and if the operators mining in non-union fields in this district can maintain their present position, i. e., have their coal mined at ten cents to twenty cents per ton less than operators employing union labor, and are enabled to market their coal at the prices at which they are marketing it, it is going to place both operators and miners in a very embarrassing position in the very near future.

"In the Pittsburg district, which is the greatest industrial center in the world, the largest number of operators who are mining coal with non-union miners have already forced a reduction of from ten to twelve per cent. Now you should make a settlement for two years and turn your guns where they belong."

Mr. Drinker: In the same volume, on page 59, from the statement of Mr. Francis Feeham, of Pennsylvania, at the bottom of page 59, and top of page 60.

Mr. Warrum: The defendants separately make the same objection.

The Court: Objection overruled.

Mr. Warrum. An exception.

The Court: Gentlemen, can we not by stipulation save you gentlemen the trouble of repeating your exceptions each time?

901

Mr. Warrum: I would be very glad to do it, if your Honor please.

The Court: Oh, yes, under the rules of the court it must be agreed to. May it be agreed that any objection that is taken by either side to a ruling of the court upon the introduction of testimony, an exception is saved? Now, under the rules of this court, an exception has to be preserved, just as Mr. Warrum has been preserving his exceptions, but it is unnecessary.

Mr. McDonough: Yes, sir, that is all right.

The Court: Let the record show that it is stipulated and agreed by and between counsel, that upon objections being made by either party to the introduction of testimony, and an adverse ruling made by the court to the person making the objection, the person making such objection will be entitled to an exception without formally noting it in the record. In other words, there will be an exception to all rulings of the court upon the introduction of evidence, without noting it in the record.

Mr. Hull (reading): "Now I have very little to say in reply to Mr. Jones of the Pittsburgh district. I am very desirous of lending all of my efforts to prevent, if possible, the production of non-union coal. I know that it has been my policy as an officer of the organization, to try if possible and agree along with the operators who have entered into a contract with us and are dealing as business men should do, and if I had any fighting to do I would want to fight the fellow that was unfair and who was taking advantage. We feel that this should be done."

902 Mr. Drinker: We now offer from the same volume, on page 118, I offer so much of the list of the representatives of miners and operators as show that John H. Jones was an operator in Pennsylvania, and Francis Feehan was a miner from Pennsylvania, and wherever in the course of these offers I make an offer of a part of a delegates or operator's statement, referring to a specific page, in some cases the man's name is on the page before that, and I merely offer so much of the preceding page as states the name of the party that made the statement.

The Court: It will be so understood.

Mr. Drinker: Now, from the miners' convention of 1908, being Exhibit 29-e, page 374, from the farewell address of President Mitchell, the next to the last paragraph on the page.

Mr. Hull (reading): "Let me remind you now that strong and powerful as your organization is, it is not yet a Gibraltar. The old saying that no chain is stronger than its weakest link holds good in this union. The strength of your union is not its best organized districts. Unfortunately—and I say it regretfully—its strength is its least strongly organized fields. You cannot be permanently safe, you can not rest in security until West Virginia, the Irwin field, the Connellsville and the Meyersdale regions of Pennsylvania are organized. You men of the mountains of the West are not secure until southern Colorado is organized. It may cost money, it may cost sacrifice,

but, gentlemen, sleep not until those men and those districts are enrolled in your union! (Applause.)"

903 Mr. Drinker: I next offer from the United Mine Workers Journal of June the 11th, 1908, the picture on page 2.

Mr. Warrum: The defendants separately renew their objection heretofore made to the introduction of any pictures from the United Mine Workers Journal.

The Court: The objection will be overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted at the time and still except.

(The picture referred to, in the Mine Workers Journal of June 11th, 1908, was exhibited to the jury by Mr. Hull.)

904 Mr. Drinker: From the miners convention proceedings of 1909, page 493, from the statement of Delegate Green, the third, fourth and fifth sentences on the page, from the words "yet I feel" to and including the words "conditions there."

Mr. Warrum: The defendants objection as heretofore made is renewed, to the introduction of these extracts from the proceedings of the convention.

The Court: Objection overruled.

To which ruling of the Court, the defendants and each of them then and there duly excepted and still except.

Mr. Hull (reading): "Yet I feel that there is need of inaugurating a great movement, a special movement, to extend our organization into the unorganized fields covered by this resolution, as well as into the unorganized districts of West Virginia. This is particularly important to Ohio because of the peculiar position she occupies between the unorganized districts of Pennsylvania and West Virginia on the south and east. We feel very keenly the effects of the unorganized conditions there."

Mr. Drinker: Same volume, page 498, the statement of Delegate Haggerty of District 2, the third paragraph, through the page.

Mr. Warrum: Same objection.

Objection overruled.

To which ruling of the Court, the defendants, and each of them, then and there duly excepted and still except.

Mr. Hull (reading): "Central Pennsylvania last year passed a resolution asking that International organizers be appointed and placed in the adjoining fields that are
905 in direct competition with us and are threatening our homes and moving in the direction of the organized fields. That request was denied by the International Executive Board and by President Lewis. I want to say in support of President Feehan's resolution that it ought to go farther. There are a hundred thousand men in the bituminous mines of Pennsylvania that are not allied with this movement. There are, Mr. Chairman, in the neighborhood of fifty thousand miners in District 17 that are on the outside of this movement east of the Ohio river. The great bulk of the coal mined by those mines comes in direct competition with the fields of Central Pennsylvania. This resolution is an important one. Take the Fairmount fields of West Virginia, and there is not a single, solitary local union, with the exception of one small one located at Cannelton in that field. There is not a single, solitary local union in the Meyersdale field, there is not an organization existing anywhere in the part of Pennsylvania that surrounds the Central district. Those fields are in direct competition with us. The money of this organization should be spent in the non-union districts in order to protect the districts where an organization has been established and wage contracts made. Why is it that there are over seventy International organizers, and yet few of them working in the non-union districts, but are stationed, and have been for the past year, in such fields as Central Pennsylvania?"

Mr. Drinker: From the same volume, page 502, from the statement of President Lewis, the second and third paragraphs.

Mr. Hull (reading): "A word in regard to organizers
906 and the organizing of unorganized districts. A large number of organizers were placed in the State of Alabama previous to and during the strike there. There are organizers in British Columbia, Washington, District 22 and Colorado. A large number of organizers have been stationed in the anthracite districts all the year practically. There have been a number of organizers in West Virginia, there are organizers in Kentucky and organizers in Tennessee. There have been organizers in the Pittsburg district—and God knows they are needed there— and there are organizers in the Central field, and, man for man, they have done more effective work in protecting the interests of the organization than the district organizers have. I want to say this now, and I say it with all due respect to my colleague, Brother Haggerty."

Mr. Drinker: From the same convention proceedings, Vol. 2, Exhibit 29 g, page 880, the last [paaragraph] of the statement of Delegate Farley.

Mr. Warrum: To which the defendants object for the reasons last stated.

Objection overruled.

To which ruling of the Court, the defendants and each of them then and there duly excepted and still except.

Mr. Hull (reading): "I want the delegates here to take home to their different locals this statement, and I want when these proceedings are printed that they be read in the local unions, so the men all over the United States will understand the problem that confronts this body in trying to organize the miners in a Southern State. Something will have to be done in Alabama sooner or later if Kentucky and Tennessee
907 are to be protected, because if Alabama goes down so will all the states south of the Ohio River."

Mr. Drinker: From the joint convention proceedings of 1910, being Exhibit 30 e, the passage,—the statement by C. E. Maurer, found beginning at the middle of page 17, and on through to the end of his statement on page 20.

Mr. Warrum: To which the defendants renew their objection heretofore made as to the introduction of any speeches or extracts from speeches at the point conferences.

The Court: Objection overruled.

To which ruling of the Court, the defendants, and each of of them, then and there duly excepted and still except.

Mr. Hull (reading): "The chief evil was the fact that districts which did not recognize the United Mine Workers and had no agreements with them produced coal much more cheaply than those districts which sustained contractual relations with that organization. Some of the more important factors influencing these conditions were different methods of producing coal, varying costs of mining, different hours of labor, different sized screens, not mentioning various other elements.

In order to correct these most harmful conditions a joint convention of operators and miners of Western Pennsylvania, Ohio, Indiana and Illinois, at the solicitation of the miners officials, was called to meet at Chicago in January, 1898. At this convention an interstate joint agreement was established. After a long session of deliberation and negotiation, continuing over a period of about three weeks, the basing price

for mining in Ohio and Pennsylvania was increased from 56 to
66 cents per ton, an advance of practically 18 per cent,
908 and both the existing price and method of screening
and weighing of coal was made uniform throughout the entire territory covered by the terms of the contract. As a result of the Chicago convention a representative meeting was subsequently held at Columbus, at which a uniform day-wage scale was established for inside labor. All of these concessions made by the operators were of substantial benefit to the miners.

In addition to the advance in the price of mining and the other important concessions [enumberated], the action of this convention had an effect of the most far-reaching and salutary character, not alone for the mine workers but for the entire labor world, in the recognition of eight hours as constituting a day's labor, this being the first recognition of the eight-hour day by any large body of employers in the United States.

The granting of the eight-hour day by the operators, after making these numerous other important concessions, was with the distinct understanding and explicit promise of the miners to give to the operators of the four contracting states adequate protection against the competition of the unorganized fields. From year to year they have been called upon to fulfill that promise.

The operators, parties to that agreement, at the time of its execution felt that it was absolutely necessary to the safety of their investments that they be protected from the [encorachments] upon them by their competitors of the unorganized fields. The tonnage of the non-union fields entering into the competitive market, particularly of West Virginia and
Kentucky, at that time was not so large, as it was ag-
909 gressive and threatening, the total tonnage entering directly into competition from those fields being approximately 600,000 tons. Since, however, coal from this unorganized territory coming into direct competition with Ohio and Pennsylvania has so increased that a fair estimate places this competitive tonnage at 8,000,000 tons, which does not include the tonnage from non-union fields adjacent to the Pittsburg district. The markets in western and northern Ohio, eastern Indiana, and Michigan, from year to year have been encroached upon by coal from the unorganized districts until at the present time nearly 50 per cent of the coal consumed in these markets is supplied from fields operated with non-union labor. To find a market for the union tonnage displaced in the territory named, the mine owners of Ohio and Pennsyl-

vania within the past five years, have made heavy investments and built and equipped large coal docks to secure markets at the upper lake ports; but these operators now find the non-union coal rapidly commanding a heavy percentage of this market, when, at the time of the Chicago agreement the non-union fields had but a small fraction of this trade, and unless these conditions are corrected the markets so secured will soon be replaced by the tonnage from West Virginia and Kentucky.

Though in the very heart of the consuming territory, on account of the wide difference between the price of labor in the organized fields of Ohio and Pennsylvania and the unorganized fields of West Virginia, Kentucky and the fields adjacent to the Pittsburg district, Ohio and western Pennsylvania are rapidly losing the markets at their very doors.

It is evident to any candid observer that such unfair
910 conditions should not be imposed upon the operators and miners of the unionized territory. That the interests of operators and miners are mutual in every respect does not admit of controversy. Each is equally concerned in rescuing this business from its present peril.

The officials of the United Mine Workers are aware of the price at which Ohio and Pennsylvania coal has been sold during the past two years in order to meet this competition, and it is no unwarranted assumption to declare that these officials know the operators of these two states have in many instances operated their properties at a positive loss, being compelled to do so in order to maintain even a precarious position in the markets, while hoping for relief and expecting, in view of the experiences of both operators and miners during that period, that the miners would gladly concede something to the common good.

At the agreement reached in Toledo two years ago no reduction whatever was made in the mining price, and for the past two years the maximum price for mining has been paid in the contracting states. During this period of industrial depression practically all classes of labor in other industries accepted a material lowering of wages. As reductions in the mining price occurred in practically all of the unorganized fields producing competitive coal, the conditions in the organized states were rendered even more onerous. On account of this competition the production of coal in western Pennsylvania and Ohio has not kept pace with the unorganized competitive states, and has lately resulted in a reduction of both tonnage and time to the miners and in the price of coal to the operators. The de-

crease in tonnage of western Pennsylvania for the year
911 1908 was 33-½ per cent; for Ohio, 18.27 per cent; while for West Virginia the decrease was but 12.88 per cent, and for [Kencutky] 5 per cent. The decrease of the values in Pennsylvania was 23.67 per cent; in Ohio, 21.03 per cent; in West Virginia, 16.38 per cent, and in Kentucky, 9.54 per cent.

In addition to this loss of time for want of business in the organized field, the miners of Ohio alone lost during the year ending December 1, 1908, 95-3/4 hours per man on account of local strikes and suspensions, while in the unorganized fields of West Virginia but 1-1/4 hours per man were lost from the same causes. During the year 1908 West Virginia miners worked 75 per cent of the working days, while Ohio miners worked but 54 per cent of full time, allowing 300 eight hours days, or 2400 hours, for a full year.

The mining price of coal has steadily increased in the contracting states from 56 cents per ton in 1897, the year prior to the Chicago agreement, to the present scale of 90 cents, or an increase of 60 per cent; the wages of all other labor at the mines have increased in [euqal] or greater proportions, while the cost of mining paid in the unorganized fields ranges from 25 to 40 cents per ton below this price, with mining conditions that still further reduce the cost, and the hours of labor from nine to ten per day. While the cost of producing coal in the districts that are parties to this joint agreement has increased as indicated, the price for coal at the mines has not kept pace with these changed conditions, by reason of the competition of the unorganized districts.

The operators of the districts here represented are
912 willing and ready to pay as high price to their labor as is paid by the operators of districts producing coal entering into competition with them. We view this situation now actually confronting both the operators and the minors as most critical indeed. If there be any merit in the claim of mutuality of interests, it is incumbent upon both operators and miners to meet these conditions, each sharing the responsibility for the result. Our interests must be protected if our employes are to find work; and in order to protect those interests and to give that employment; we feel that this is the time for an agreement based upon a recognition of the actual conditions and wages paid in the states producing coal entering into competition with us.

Finally, we ask for the fulfillment of the pledge of 1898 upon which we made to the miners so many important and

costly concessions. Though that promise has not been kept, we have continued for twelve years to make additional concessions by increasing the mining price from 66 cents agreed upon at that time to 90 cents, and in other respects conceding demands without any compensating concessions upon the part of the miners, until we now find ourselves at the limit of financial safety. The operators can make no further concession. It is now, in our view, not only to the interests of the miners, but their duty as well to do their share to meet these conditions.

It has been set forth as the controlling reason for an increased price for mining that the cost of living has increased during the past few years. Is it not fair, equitable or reasonable to believe that by making conditions in
913 competing districts equal, the districts which are parties to this agreement will benefit by a larger number of days employment, and thus the earning capacity of the miners of our district be largely increased?

We believe this to be a true statement of facts, and therefore call upon you to relieve us as well as yourselves from the unfortunate situation in which we now find ourselves, due to the failure of the miners' organization to keep the faith pledged at Chicago in 1898.

We therefore insist that your organization place the districts, parties to this agreement, on the same relative basis as the unorganized districts with which we were compelled to compete."

Mr. Drinker: The next is from page 23 of the statement by President Lewis, on pages 23 and 24.

Mr. Warrum: The defendants renew their objections.

The Court: Objection overruled.

To which ruling of the Court, the defendants, and each of them, then and there duly excepted.

Mr. Hull (reading): "Great stress has been laid upon the word "competition" competition from West Virginia, from Kentucky and from other places. Let us analyze that statement briefly. We will go into it more in detail before we get through with this interstate joint convention. The claim is made that Ohio's production has not increased in proportion to the production of West Virginia. That is true. There is no argument about that. Why? Because, the operators say, of the ability of West Virginia operators to put coal in the markets they have taken away from

the Ohio operators. I believe that is true to some ex-
914 tent, but it is strange that some of the leading operators of Ohio have gone to West Virginia and that some of the leading operators of Western Pennsylvania have gone to West Virginia. I am not blaming them for going there; but those same operators have been told, "You ought to lend your influence, if you are sincere in this interstate joint movement, to show to the operators of West Virginia that this joint movement is a good thing for the mining industry of the country." The real facts are that the operators from Western Pennsylvania and Ohio that are going into the districts the operators complain of resort to the same tactics as the West Virginia operators do to keep the United Mine Workers out of that field."

Mr. Drinker: From the same volume page 27, the statement of President Lewis, the last paragraph on the page through the paragraph on the top of page 28.

Mr. Warrum: The defendants make the same objection.

The Court: Objection overruled.

To which ruling of the Court, the defendants, and each of them, then and there duly excepted.

Mr. Hull (reading): "Our proposition is "that there shall be no limit to the amount of deductions for the organization." We mean by that that there shall be no restriction on the amount of deduction we ask from our mages to turn over to our organization. It is true that in some of the districts there is no limitation, but in other districts there is a limitation. And while I am not one of those people who believe in organizing West Virginia to close up their mines,
I am one of those people who believe in organizing West
915 Virginia in order that the operators of the Central Competitive Field as well as West Virginia operators can get better returns on their investments, and in order that we can get better returns for our labor. If we are unable to get the operators to co-operate, to get the West Virginia operators to come into the joint movement, as was original intended in Chicago, the only other method we have is to spend our money to organize that state and enable the operators to do business."

Mr. Drinker: From page 30 of the same volume, from the statement of Mr. Green, the first two paragraphs.

Mr. Warrum: To which the defendants make the same objection.

The Court: Objection overruled.

To which ruling the Court, the defendants, and each of them, then and there duly excepted and still except.

Mr. Hull: (Reading.) "Let me point to the fact that the United Mine Workers of America have diligently and aggressively attempted to carry out the promise made in Chicago in 1898; that they have done [verything] in their power to redeem any promise they may have made to organize West Virginia. Since 1898 our organization has at various times spent hundreds of thousands of dollars trying to unionize West Virginia. We have also sacrificed human live in the attempt to redeem that promise. In view of the fact that we have spent hundreds of thousands of dollars and that our organizers, our members who have sacrificed their lives and their liberties, we should be given credit for what we have done. I want to ask the operators how much money they have spent and what they have done to aid us to organize West Virginia.

916 Is the fact that we have spent hundreds of thousands of dollars appropriated from the small earnings of our people in the Central Competitive Field, and the fact that we have sacrificed the liberty of some of our members any evidence that we have tried to redeem that promise? Does that not show that we have honestly, sincerely and diligently attemtped to redeem it? I believe, gentlemen, that if the operators had done one half as much as the miners have done, if they had even co-operated with us in what we have done, West Virginia would be organized and the operators and miners of that state would be here today participating in this joint movement.'

Mr. Drinker: From the same volume, page 45, the statement of Mr. Maurer, the third paragraph, from the words "And I am going to put up to you" on through the same paragraph.

Mr. Warrum: To which the defendants renew their objection.

The Court: Objection overruled.

To which ruling of the Court, the defendants, and each of them, then and there duly excepted and still except.

Mr. Hull (reading): "And I am going to put up to you, I am willing to concede to this convention that West Virginia is not organized; that for ten or twelve long years the

miners have done everything in their power to organize that field, and that they did it diligently and earnestly is admitted, nevertheless that field today is unorganized. Nobody is to blame. Neither the operator nor the miner is to blame for that condition; but it is a condition that we must meet and each one bear his share of the burden. Eight
917 million tons of the coal from that unorganized state is today taking away from you the product of your labor, and taking away from the operator every cent of profit he ever had in the business. You cannot correct that. You may say to us, "You must get together and agree upon prices; you must get the West Virginia operators in and agree upon a price." Why, every man who stands here knows that if the operators in the State of Ohio attempt it they do so in violation of the Valentine law and that the penitentiary stares them in the face. Every miner here knows that if in the States of Ohio and West Virginia the operators were to attempt anything of the kind, they would violate, not only the Valentine law, of Ohio, but they would violate the Sherman Anti-trust law. It is easy to tell us what to do, but you should also tell us how to do it. Does any miner here believe that the operators of the State of Ohio have not tried to get the best price they can for their commodity? We have some interest in our business, we have our money invested in it, and I asure you that for two years the miners and the railroads have got every cent there was in it, and more too."

Mr. Drinker: From the same volume, page 51, from the statement of Mr. Penna, the first paragraph on page 51.

Mr. Warrum: To which the defendants renew their objection.

The Court: Objection overruled.

To which ruling of the Court, the defendants, and each of them then and there duly excepted and still except.

918 Mr. Hull (reading): "There are some facts that it is useless to attempt to ignore. The very purpose of the union is to increase the price of labor, to reduce the hours of labor, and then when that is done in this meeting we go home and there are attempts made, and often enforced, that further increase the cost. That is the very purpose of unionism. It has no right to life on any other plane than that, or least we have never discovered it. It has no object in existing that we know anything about except to increase wages and decrease hours of work, and it has been

successful in doing it. It is also a fact that not more than one-half of the miners of the United States are unionized. Those who are not unionized work more hours, perform more labor for less money, and as a result throw on the market a cheap product. Those are the non-union men, those who are the men who are our mutual foes. They are your foe, and as long as you pursue a policy of trying to get more from the operators in the territory that is unionized, getting more directly and getting more by indirect methods, you are furnishing an inducement to the non-union miner and to the non-union coal operator to remain in that position, because they are better able to take your trade, they are better able to take our markets, they are better able to get your work, and the operators are better able to get our profits."

Mr. Drinker: From the same volume, page 65, the statement of Mr. Chapman, the bottom paragraph, through to the top of page 66.

Mr. Warrum. To which the defendants make the same objection.

919 The Court: Objection overruled.

To which ruling of the Court, the defendants, and each of them, duly excepted and still except.

Mr. Hull (reading): "You made promises in 1898 that you have not kept. You may have tried to keep those promises, but you know what was said and what was done on the floor of the convention in 1898. I was a participant in it, as I have been in the preceding interstate movements. You know what the understanding was, and you know that at every session of every convention that has been held from that time down to the present we have asked you to carry out and make good what you said you would do at that first conference. In my opinion the only way you can ever hope to succeed in putting the union fields on a competitive basis in cost with the non-union fields, the only way you can give your people more work and the other fellows less is to reduce your wages to enable the operators to produce their coal at a cost that will enable them to take the trade. It can be done in no other way. You have tried the other process for twelve years and it has been a total failure; you are weaker now in the non-union fields than you ever were. They are producing more coal and increasing their output monthly and yearly, and it will only be a short time until the Ohio coal docks will be a thing of the past, the mines will be closed up and you without

work in your own state. An industry that now employs 60,000 people in the state, to say nothing about the other labor that is employed by railroads and other industries in connection with the Ohio coal producing field will be without work."

Mr. Drinker: In the same volume, from the same gen-
920 tlemen's statement, the bottom paragraph on page 66,

Mr. Warrum: To which defendants renew their objection.

The Court: Objection overruled.

To which ruling of the Court, the defendants, and each of them, then and there duly excepted and still except.

Mr. Hull (reading): "The controlling influence in Ohio has been the competition of West Virginia coals with the domestic product, unhampered by the restrictions that hamper states in which the miners are thoroughly organized, such as Ohio, and also because of the conditions of mining. The coals of West Virginia are said to be mined at about one-half the cost of producing Ohio coals and the West Virginia product has taken the Ohio markets to the full extent permitted by the difference in transportation expenses, leaving Ohio coals only such markets as may be near the mines, and as the means of transportation increases by which West Virginia coals are put farther into Ohio markets, the prospect of the Ohio mines is not bright."

Mr. Drinker: In the same volume at page 105, the last paragraph of the statement of Mr. Maurer.

Mr. Warrum: To which defendants renew their objection.

The Court: Objection overruled.

To which ruling and action of the Court, the defendants, and each of them, duly excepted and still except.

Mr. Hull (reading): "Now let us be fair to each other. If there is anything in trades agreements they must be based on equality; not how much we can force the other fellow to pay, but how much they ought to pay in order that they may get
a fair return for their investment, for their time and
921 for their energy, and in order that you may get a fair return on your labor. I appeal to you in all fairness, and if any miner on that side doubts my word, if he will come to the city of Cleveland I will open the books of every operator in that city that does business in the State of Ohio. Don't

get away from the fact that we cannot pay you more than we get. We are willing to pay you every dollar we can, and for two years we paid you dollars you never earned. Keep one thing in mind—keep the facts staring you in the face that for two years your mines have laid idle while West Virginia non-union tonnage took the markets that belonged to you and to us. We stand next to these markets. In order to maintain our markets we on this side invested our money in the great Northwest and built docks to keep the market for you. That market today is in jeopardy on account of the competition from West Virginia, Tell me, tell me in fairness, is our position not right? Considering the last two years' experience, can you honestly ask for an advance in wages?"

Mr. Drinker: On page 122 from Mr. Zerbe's statement, from the middle of page 122 beginning with the words "A very considerable amount of censure" and through the paragraph on page 123.

Mr. Hull (reading): "A very considerable amount of censure and criticism has been put upon some operators who are here because of the fact that they have gone to West Virginia and found investments. I will remind the other side of the house that the men who have gone into Virginia are business men; they are engaged in the coal industry, and they
922 bring the commodity from one state or another to furnish fuel for such contracts as they take. They have found by experience that you as an organized body are not treating them fairly where they are circumscribed in the production of this commodity. They find that you are putting upon them burdens in the organized fields that do not exist in the unorganized fields. By reason of the fact that you cannot control in the production of this commodity, although we cannot control in the production of this commodity, although we are willing to admit you have made an [effor] their market is being taken from them or restricted or narrowed, and many of them in self-[defeme] find it necessary, in order to carry out contracts and fulfill their obligations to those who take this commodity from [the,] to go to West Virginia and invest in properties there that they may continue a business for which they are obligated. I am not one who has done that, but I may be. They believe that at these intervals you will place their properties in the unionized sections in a position where they cannot operate them, and as a result they go to the unorganized fields and invest money and feel secure that under any conditions they can fulfill these obligations.

The operators are not seeking to go there but you are driving them there by your attitude toward the people who have been your best friends. There are many of us who have not gone to West Virginia; there are many of us on this side of the house who are not important operators. We own our mines. We are here in the position we find ourselves through no fault of our own. It has been said we have been wasteful because we have accepted lower prices than we should for our coal. If operators who do that are guilty, I am one of them.
923 I accepted a lower price for tonnage last year than I ever did in my life, and I have been in this business all my life. Did I do that because I wanted to give anything away? No; but I did it, and I want this fairly and distinctly understood, because there was a certain tonnage I could place at a fair price. That tonnage could not be produced and keep my men at the mine and support them unless they had additional tonnage, and I did take tonnage at a lower price than I ever did in my life; I gave the boys at the mine the benefit of it and I paid my pay roll. When the year had finished those results came on the wrong side of the ledger. Our property was wasted; I got nothing out of it; those associated with me got nothing out of it. The only profit derived from it was derived by the men who worked those mines, and they had as much, though coal was given away, as though we had secured a good price for it. Instead of censuring us, I believe you should say, "You have done the fair thing by us and we appreciate it."

Mr. Drinker: From page 211, the statement of Secretary Perry, the third paragraph of the statement beginning, "The price paid" through that paragraph.

Mr. Warrum: To which defendants renew their objection.

The Court: Objection overruled.

To which ruling of the Court, the [defendnats], and each of them, then and there duly excepted and still except.

Mr. Hull (reading): "The price paid for mining in West Virginia is not the only cost of production. Those men have bills to pay that you do not, and you know it. It is not necessary that I should mention what they are. As a re-
924 sult of the organization trying to organize that field there is an added cost to the production of those operators. In my judgment, as far as the unorganized fields are concerned, if the miners are paid an advance in the organized fields I do not believe it will be possible for the mines in West Virginia to operate and pay the present rate of wages."

Mr. Drinker: Page 250, from the statement of Mr. Chapman, the last full paragraph on the page.

Mr. Warrum: To which defendants renew their objection.

The Court: Objection overruled.

To which ruling of the Court, the defendants, and each of them, then and there duly excepted and still except.

Mr. Hull (reading): "Years ago we asked you, pleaded with you, to bring the non-union fields up to a scale of wages that would enable us to pay you the scale you have asked for from time to time; and you promised to do it, but you have not done it you have not kept the faith. We would be willing to pay the scale today and make the advance if you would put those people on a level with us in the cost of production. You know you cannot do it. You have made efforts to do it, but you are farther away from the goal now than you were in 1898, and you are getting farther away every day. You know you cannot enforce the scale of wages. In every district that you have attempted it you have partically lost out, and you are losing every day."

Mr. Drinker: From page 251, the statement of Mr. Green, the—beginning with the words "I do not propose to attempt to defend" to the words "Our friends on this side."

Mr. Warrum: To which defendants renew their objection.

925 The Court: Objection overruled.

To which ruling the Court, the defendants, then and there, duly excepted and still except.

Mr. Hull (reading): "I do not propose to attempt to defend the non-union fields of West Virginia. I know, as [tdo] the other miners on this side, that the non-union product of West Virginia is a serious proposition. As evidence that we recognize that fact, out of the meager earnings of the men on this side we have contributed month after month and year after year to try to organize that field and bring them up to a competitive basis with our friends on this side."

Mr. Drinker: Now, from that same volume on page 358 to page 366, so much as shows—contained in the list of the delegates of the operators and miners, extracts of which have been read—so much as shows that Mr. Lewis was president of the United Mine Workers, Mr. Perry, its Secretary, Mr. Green a delegate from Ohio to the United Mine Workers, and Messrs.

Maurer, Zerbe, Penna and Chapman were delegates representing the operators.

926 From the United Mine Workers Journal of July 7, 1910, page 1, column 1, the heading in capitals and bold faced type, the first two paragraphs of this item; the last paragraph of the second sub-division entitled "Unionization of States" and the first paragraph of the third sub-division entitled "Mining Expenses At Large" for the same purpose.

Mr. Warrum: The defendants object to the introduction of any articles from the Mine Workers Journal for the reasons given.

The Court: Objection overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Mr. Hull (reading): "Lewis And Elliott In Conference.

"Quick Results Are Now Expected From Lewis And Elliot—Lewis' Statement."

"Kansas City, Mo. June 25.

"For the first time in the history of the coal mining industry in this country, two men, one representing the operators and the other the miners have been clothed with authority to arrive at an agreement over the new wage scale which has been troubling the operators and miners of the Southwest, and as a result of which there are now about 30,000 idle miners in the district tributary to Knasas City.

"The two-man committee is composed of Thomas L. Lewis, President of the United Mine Workers of America, and James Elliot, representing the Coal Operators of the Southwest. Authority for these men to arrive at an agreement was given by the conference committees a week ago."

"Unionization At Stake * * * There are several
927 points at issue which will require much consideration by these two men. One is the wage question and the other the working conditions at the mines. The operators now claim that if the scale adopted here, together with the adoption of the same working conditions that many of them would be compelled to close their mines because of the competition from the Illinois fields. The operators here have to compete with the oil and gas producers, and the Illinois operators have no such competition.

"Mining Expense Large.

"This compels the Southwestern operators to sell a part of their coal at a figure practically below the cost of mining, because the expenses of mining and distribution, as well as the other expenses, must be secured from the profit on the sale of the other coal. This must be sold so as to compete with the Eastern coal. The expense of mining coal in this district is said to be much larger than in Illinois because of the difference in thickness of the coal veins. The timbering and other mining necessary to get the coal from the ground."

928 Mr. Warrum: The defendants desire separately to move to strike the article from the record as evidence, for the reason it purports to be a news item, and it is introduced for no other purpose save the effect it might have and it is mere hearsay.

Mr. Drinker: I desire to be distinctly understood as stating that it is not offered as to the truth of the matter contained in the article.

The Court: Objection overruled.

To which ruling of the Court, the defendants and each of them then and there duly excepted and still except.

Mr. Drinker: From the joint conference, Exhibit 30-f, of coal operators and miners for 1912, from the statement of Mr. Hayes of Illinois, on page 33, the second full paragraph on the page.

Mr. Warrum: To which defendants object for the reasons heretofore assigned to the introduction of extracts from proceedings of joint conferences.

The Court: Objection overruled.

To which ruling of the Court, the defendants and each of them then and there duly excepted and still except.

Mr. Hull (reading): I have had charge of the organizers during the past year, and we have made every possible effort at our command to spread the gospel of unionism into the non-union regions. The future looks bright. Today there is splendid sentiment among all the non-union operators of the South in favor of this organization. I want the operators to realize that this organization is doing everything in its power to limit unjust competition. We believe in fair competition between
929 operators, and I want to assure you that we are doing everything in our power to limit unjust competition. I

understand that will be the basis of your argument in this conference, as it has always been."

Mr. Drinker: From page 40, to page 41, being the operators' proposition, as read by Secretary Perry.

Mr. Warrum: To which defendants renew their objection.

The Court: Objection overruled.

To which ruling of the Court, the defendants, and each of them, then and there duly excepted and still except.

Mr. Hull (reading): "Secretary Perry read the following proposition:

"Operators' Proposition.

"The experience of the last two years under the present scale of wages and the losses sustained by reason of the wide difference between the prices paid in this competitive field and the non-union fields with which the product of our mines enters into direct competition, makes it imperative that some relief be given us.

"Unless this situation is changed and some relief given, our tonnage will be still further reduced and our markets still further absorbed by these non-union fields, with a repetition of the financial losses for the next wage period that we have sustained during the present and a consequent loss of employment to the miners.

"With this condition actually existing we have no recourse but to ask that the miners bear their part of the burden, and to meet this condition, grant us a substantial reduction.

"We therefore propose a return to the 1904-06 scale of
930 wages in the basing districts, with the right for the operators of the State of Indiana to ship mine run or screened lump regardless of which basis is used in paying the miner."

Mr. Drinker: From page 42 of the same volume, at the top of the page, being a part of the statement of Mr. Field, through the statement of Mr. Hayes in the middle of page 43.

Mr. Warrum: To which defendants renew their objection.

The Court: Objection overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Mr. Hull (reading): "Mr. Walker spoke of the increased cost of living this morning, and by inference said it was arbitrary and artificial; and in the next breath your Vice-President spoke of raising the price of coal ten cents by the operators and charging the public more. I am not going to attempt to get into the practical end of mining, because I am not conversant with it. There is no use of any one taking up the West Virginia condition, because you are all familiar with it. We lost business last year because we could not meet competitive conditions. I don't see any way we are ever going to meet competitive conditions unless we have a decrease.

"Secretary Perry: Will you permit me to ask you a question?

"Mr. Field: Certainly.

"Secretary Perry: Suppose you were granted a decrease, dont' you think the West Virginia miners would have their wages reduced?

"Mr. Field: If they did you would have a chance to unionize them.

931 "Secretary Perry: Do you think the West Virginia operators would reduce wages?

"Mr. Field: Yes.

"Secretary Perry: Yes, and a great deal more than you would.

"Vice-President Hayes: If the West Virginia miners were reduced in the same proportion as the union miners, would it change conditions?

"Mr. Field: Yes. The West Virginia miner is not dissatisfied today, and he will not be dissatisfied as long as you raise his wages. You have got to meet conditions down there and have those people go as low as they can.

"Mr. Walker: Will you permit me to ask a question?

"Mr. Field: Certainly.

"Mr. Walker: Do you think it would add to a desire on the part of the West Virginia non-union miner to come into our organization if we reduced his wages ten cents a ton?

"Mr. Field: I still maintain it will give you a chance to unionize down there, which you have never done, and there has been no real attempt to do it that I have ever heard.

"Mr. Walker: Suppose you were mining coal down there and our organization—

"Mr. Field: If I were a miner on your side and I wanted to get back my trade I would meet the West Virginia conditions if I had to come down to their basis until I got my trade back.

"Secretary Perry: In your judgment, if our demands were conceded here today, or at any subsequent meeting, do you suppose the West Virginia miners would work for the present scale of wages?

932 "Mr. Field: I think they would do what they pleased down there—what they have always done.

"Secretary Perry: What has been the practice of the past?

"Mr. Field: I don't know.

"Secretary Perry: If the operators concede the advance would it not have a better effect in organizing those non-union miners then if there was a reduction? Would they not become more restless?

"Mr. Field: It has not had that effect.

"Mr. Hayes, Illinois: If the operators granted a ten cents advance would it not make the West Virginia miners more dissatisfied with their condition? It seems to me we ought to establish an ideal for them to work to. If we reduce wages it will not be much of an inspiration for them to organize."

Mr. Drinker: From the same volume, on page 44, the statement of Mr. Maurer, through two lines on page 46.

Mr. Warrum: The objection of the defendant is renewed.

The Court: Objection overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Mr. Hull (reading): "Now you tell us we are competing among ourselves. Possibly we are. But when you go back over ten years and see the vast inroads of West Virginia coal in the markets which belong to you and to us, because of our geographical position, can you tell us how we are going to prevent it on this side? We cannot say to the operators of West Virginia, "'Get more for your coal," because they are forcing their coal into our markets, and every ton of our
933 coal that is displaced is displaced by a ton of West Virginia coal. West Virginia is growing, and in order to

grow she must drive you and me out of business or she can grow no more. And the same is true of Kentucky. There is only so much demand for coal; and while year after year the great demand is increasing and the product is increasing; yet West Virginia and Kentucky are growing and growing and doubling their output while we are barely crawling along, and we are getting no benefit from that increase and never can get any benefit from it until we stop this competition.

"There may be competition among ourselves, and there is bound to be competition as long as our markets are being taken from us day after day and day after day by the product of these non-union states, and the operators are absolutely and unconditionally helpless. If we get any relief it must be the relief that we can work out between us. And you will unionize West Virginia when you put them down to the point where they will have to become union men. You will never unionize them as long as you increase your wages and as long as you are willing to work one hundred days a year and let them work three hundred days a year.

"Those men want union conditions. They are making more money than you are. You may talk of the pitiable condition of those men, but I tell you at the end of the year they have earned many more dollars than the miners of Ohio and Pennsylvania. Why? Because you are setting your mark so high they can work their mines every day while our mines lie idle; and they can pay the men pretty close to the wages we are paying you, and with the other conditions they can pro-
934 duce their coal from thirty to forty and fifty cents a ton cheaper than we can produce coal in Ohio and Pennsylvania.

"No, you can never unionize West Virginia on that basis, because they don't want to be unionized. You have got to meet that situation, you cannot get away from it. The markets on the Great Lakes are being taken day after day by the product of West Virginia. Why, men in Eastern Ohio owning docks on Lake Michigan have not been able to put a pound of coal on them this year. Why? Because West Virginia coal has been put on the docks in Lake Michigan at $1.70 and $1.80 f. o. b. You cannot meet that condition. The operators can not meet that condition. The only way it can be met is by joint action between the employer and employe to protect their industry. It is your business and our business; you cannot keep continually going up and up and up, for if you do you are simply going to reduce the product of your labor to a minimum and some day you will wake up and

find you have no business in Ohio and Pennsylvania. That will be the result. I tell you we cannot see our markets going any longer.

"We have tried to meet the situation in the Northwest. We have our money invested in docks up there along on Lake Superior, and we have been able to hold the situation there simply by holding together. That is all we have done. We have seen our markets in Western Ohio, Indiana and Michigan go. Do you realize that today the amount of No. 8 or Pittsburgh coal going into these markets is absolutely nothing outside of the railroad tonnage? Do you realize that from a commercial standpoint you haven't any business? Now let me
935 take you along the line, and I am going to take you right to your own district in Eastern Ohio.

Of the product of 1910, with the great Illinois field absolutely out of business—and we ought at least to have had some benefit from it—the output of our mines in Eastern Ohio went as follows: Two and one-half million tons to the initial railroad; two and one-half millions on foreign railroads, about two and one half millions to the lakes for cargo and fuel, and one and one-half millions to the Steel Corporation. The balance of the tonnage was distributed to local points. That is where the product of our mines went, and we could not get any farther than that.'

Mr. Drinker: From page 49 of the same volume, the bottom paragraph on page 49, through page 51, the statement by Mr. Penna.

Mr. Hull (reading): "The arguments indulged in here with reference to West Virginia—and I have heard that ever since I have known anything about mining coal in the United States. It has been the same old song always, the same old continuous cry that the miners cannot advance farther in this competitive district with West Virginia where it is. It has lost none of its force by age. It is as forcible, or more so, today than it ever was, and the Mine Workers' Union has always recognized that force. No matter what may be said here in this meeting, the history of the past, the work that has been put in in West Virginia, the money that has been spent there and the continuous attempts on the part of the Mine Workers' Union—with more or less zeal—is evidence of the fact that the Mine Workers' Union recognized that West Virginia is a drag on
936 this competitive district.

"It isn't any use for us for a minute to hoodwink ourselves or each other, or laugh at the idea of competition

or attempt to minimize its effects, it is present and it must be reckoned with. The mine workers of West Virginia either do not want to be unionized, or the employers in West Virginia do nont want them unionized, or both.

"I am not going to attempt to explain why the men of West Virginia do not want to be unionized. That has never been clear to me; I don't understand it; but I can understand why the employers do not want them organized; and one of the chief reasons is because they see and know from public and private sources how the employers are treated in localities where the union is strong. And they properly conclude that it is cheaper by any method which they may see fit to adopt, by all the methods which they may see fit to adopt, it is cheaper to adopt those methods and pay the bills than it is to submit to the unionizing of their properties. They are properly afraid of what might be the consequences. They will read the reports of this meeting. They have of other meetings just like it. They see where we have talked of a desire to unionize West Virginia for only one purpose, namely, to exclude them from the markets in order that we may replace their product with our. And hence they lay back and conclude, "We are going to take no chances. We have those markets and we are going to maintain them as long as we can and encroach as much farther as we may." They see reports of meetings of this kind and of the miners' demands. They read of the continual strikes and disputes and turmoils and violations of contracts
937 in districts that are unionized, and they conclude it is cheaper to remain non-union, that it is more profitable after paying all their expenses, than it is to unionize.

"And I say to you, gentlemen, that the West Virginia operators are not alone by any means. There is other competition than that of West Virginia. Kentucky is a vast, developing state, and between West Virginia coal and Kentucky coal Indiana has no bed or roses. It may surprise you gentlemen to learn that in the State of Indiana alone there is a very, very large portion of West Virginia coal and Kentucky coal consumed in our own and natural markets that cannot be reached because we cannot produce coal cheap enough to reach them. You may know that. We know it. It is public information.

"If it were possible to make a contract in this conference that would influence the mine workers of the United States—I don't mean influence them directly—but to make it in this conference and guarantee its acceptance and put them on an

equality, then I am willing to concede that there is no impropriety in your demands. It would be a matter of indifference, within reason, to the operators as to what they paid and the number of hours the mines were in operation if there was this uniformity of which we speak. The people over here would be pleased, I expect to concede any demand you might make within reason if you would only permit them the control of their property.

"But that is not the situation, and however much we may talk, no matter how long we may talk, the fact still remains that a majority of the tonnage of the United States is produced by non-union labor. And this competitive field
938 is more directly influenced by that non-union product than any other locality in the United States. I could not say positively how many men there are in the states of West Virginia, Kentucky and the bituminous field of Pennsylvania that are non-union. I don't know. I expect there are in the neighborhood of 150,000 or 160,000 men, butted right up close to the edge of our territory all round us, ready with their cheap labor, with their greater number of hours of work, with a good production to supply any market in which they can get a footing, and enabled to get a footing in almost any market they desire by reason of the non-union and cheap product.

"In 1911, as compared with 1910, our little state fell off approximately six million tons of coal. Our 1910 product was unusual, it was larger than it had ever been, due to several causes. One was the fact that Illinois was on strike.

Another cause was that the general increase in the consumption of coal all the world over was enormous. There was not a coal producing country in the world that did not enormously increase its tonnage in 1910. Every nation on earth producing coal increased its tonnage. Indiana did not increase very much beyond its proportion, and what it did increase beyond its proportion we attributed to the strike in Illinois.

"This year we have fallen off six million tons or thereabouts, approximately 33 1-3 per cent of our production, and while we were doing that in the twelve months of 1911 West Virginia increased practically twelve million tons in the same year, or nearly a million tons a month. Kentucky, on the south of us, increased her production. Ohio lost
939 several million tons in her production last year as compared with 1910.

"Now, that is our situation in this competitive field, and in view of such a situation it does not seem to me we can consider for a minute the payment of any advance in prices. The argument is in favor of the opposite—the reduction demanded by the operators."

Mr. Drinker: I want to offer one extract I forgot from the convention proceedings of the miners of 1910, Exhibit No. 29h-2, from the report of the Vice President, E. S. McCullough, the two sentences at the top of page 115.

Mr. Hull (reading): "The first, principal and great need of our union is the organization of the non-union mine workers of this country. So long as the great army of non-union men remain outside of the organization they continue to be a menace and stand in the way of progress and advancement of the organized mine workers."

940 Mr. Drinker: From the joint convention proceedings of 1912, Exhibit 30f, pages 73 to 75, from the statement by Mr. Lewis of Ohio, through the middle of page 75.

Mr. Warrum: The objection of the defendants is renewed.

The Court: Objection overruled.

To which ruling of the court the defendants, and each of them, and then and there duly excepted and still except.

Mr. Hull (reading): "The argument made against the advance on account of competition from West Virginia is not a new one. The burden of the responsibility for failure to organize West Virginia and Kentucky is placed upon us by the operators. I make the broad statement that the operators are just as much responsible for the condition that exists in West Virginia and Kentucky as the miners are. Now, it is not fair to make that statement without proving it. The operators of Ohio and Western Pennsylvania seek to have the condition remedied by a readjustment of freight rates because they believe there is no hope from the miners' union. The argument made before the Interstate Commerce Commission was that coal is produced from 25 cents to 30 cents per ton cheaper in West Virginia by operators who put that coal in competition with Ohio and Western Pennsylvania and they used that as an argument why they should have a readjustment of the freight rates.

"By that very argument made by the operators of Western Pennsylvania and Ohio the operators of West Virginia

are impressed with the idea that the purpose of their movement is to organize the miners of West Virginia to keep the operators out of the market, or to readjust the
941 freight rate differential in order to make it possible for them to get into the market. That is the one side. The other side of the proposition is that our own people—and when I say our own people I mean the miners—insist that we must organize West Virginia in order to protect the central competitive field. The operators here, even from Indiana and Illinois, discuss just as often if not as persistently and strongly the competition from the nonunion fields as the operators from Western Pennsylvania and Ohio do. And you fix in the minds of the non union operators that the entire purpose of this interstate movement is to monopolize the business north of the Ohio River and keep the fellows on the south down where they belong.

"I am not one of the representatives of the miners who has denounced West Virginia operators, because I believe their miners can be organized quicker by going to the operators and convincing them that they are entitled to their share of the great northwestern trade. I believe they are. I don't believe they have any right to put any coal down at my home; I don't believe they have any right to put any coal in Columbus in competition with Hocking, but they do it. I don't believe they have a right, except for special purposes, to put coal into Cleveland against Massillon, especially as a domestic proposition. But if they have the advantage down there that is claimed for them it is due to our own —I might say foolishness—it is due to our own methods of discussing the problems affecting the central competitive field. We always refer to the nonunion operators as people who must be controlled in order to protect our interests in the union fields.

942 "When the operators proposed a reduction here I made up my mind at first that I would say anything at all about it, for the reason that they know just as well as we do, regardless of what may be said to the contrary, that if we took a reduction of 30 cents a ton West Virginia would meet it. When we had no interstate joint movement so far as the Ohio miners were concerned, back in 1895, and 1896, the miners were starving and the operators were going into [bankprutcy]. The joint movement was the God send that saved them. But the joint movement, instead of being extended, has been broken up several times for no other reason than that operators came in here and wanted to look after their own interests, as it applied to certain states; and

the miners were willing to take the broadest view of the situation, say, "We will throw wide open and build a constructive scale from the bottom to the top." I believe when we finally get through here we will have still left unsolved the problems that must be solved some way before we will have a permanent interstate joint movement, before we will be able to induce the operators of the southern field to become part of it.

"If we go back through the history of this movement we will find the operators of the central competitive field have voted against and talked against admitting anybody else except West Virginia, and they would not admit the West Virginia miners unless the West Virginia operators were present, which was inconsistent on their part.

"Reasons have been given for an advance in wages. I am not one of the representatives of the miners who believe that if we can get 20 cents a ton advance in wages the
943 operators can simply go out and say to the consumers, 'We want 20 cents or 40 cents more for our coal.' I did believe however that if our demands were conceded by the operators and we were given an advance in wages the operators in the nonunion field would immediately concede the advance of their employes. There is a reason for that. They do it in order to keep their men with them. As a matter of fact, the operators in the nonunion fields had a very strenuous time keeping enough men in their mines to operate their plants. They have agents out always, and after they get the men there they have a strenuous time protecting them from becoming organized. I believe there are just as good union men at heart working the mines of West Virginia as anywhere else in this country. I believe the operators of West Virginia, or a number of them, would be willing to go into a joint movement if they were convinced that we were sincere, if they were convinced that the movement meant equity for everybody, and didn't mean shutting out of the markets the mine owners of the nonunion districts. I make this statement because I have talked to nonunion operators of West Virginia on this subject. That is their position, and anybody else who goes and talks to them will find it to be true.

"We want an advance in wages because it is necessary for us to get an advance in order to meet our modest obligations I believe this joint movement ought to go on record after we have reached an agreement to have the West Virginia operators and miners meet, not for the purpose of making an agreement—because if we told them that they would not

meet us—but to draw up an agreement with them that
944 we don't propose at this time to deprive them of what rightfully belongs to them in the market. West Virginia must market her coal either east or west because she does not consume it at home."

Mr. Drinker: From the same volume, on page 215, the
945 statement of Mr. Penna, the last paragraph of his statement.

Mr. Warrum: The objection of the defendant is renewed.

The Court: Objection overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Mr. Hull (reading): We are up against this competition, there is no use trying to get away from it. In your nonunion fields your men work ten hours a day as a minimum and the maximum is unmentioned—anywhere from that to twenty-five. For ten hours the day men get about $1.50, and if they work twelve or fourteen hours a day they may get a little more. I don't know whether they do or not. The coal is weighed or measured, and our experience has usually been that when coal is measured in coal cars those cars seldom get any smaller. And you say you cannot organize those people and their product goes in direct competition with ours. One reason you cannot organize them is because they have certain methods to which resort to prevent organization.

946 Mr. Drinker: From Mr. Penna's statement on page 216 of the same volume, the last paragraph of his statement on page 216.

Mr. Hull (reading): You may be able to do as the gentleman over there suggested, you may be able to get all you are asking at the end of a strike; but that will not make it just. And if you do it will not be helpful to the men you represent any more than it will to those people over here. I believe every man on this side of the house is willing to give just as much as the business will permit, in view of our surroundings. Organize those Virginians and organize those Kentuckians, organize central Pennsylvania and then move up together. Level up and then move, but don't keep moving the highest.

947 The Court: At this piont we will adjourn until tomorrow morning at 9:30.

948 Fort Smith, Ark., October 26th, 1917.

Pursuant to adjournment as last aforesaid, on Friday, October 26th, 1917, at 9:30 o'clock, a. m., came all the parties as before and the trial of the case proceeded as follows:

Mr. Drinker: If your Honor please, yesterday before adjournment to two o'clock, your Honor mentioned the question as to whether the joint convention proceedings were properly verified as copies, and I made a statement, I do not remember exactly what I said, but in connection with your Honor's request I think your Honor intimated that the miners' conventions were in some way differently proved on the record from the joint conventions, and I stated it was my impression they were the same. That was merely an impression, and in order to be sure that I was correct, I looked at it and find that I was in error and I want to correct your Honor's impression so that your Honor will not make any ruling funded on any statement of mine. I want your Honor to see exactly what was the occasion and what happened.

In the Green deposition, the miners' Journals were produced by Mr. Green and the joint convention proceedings were also produced, pursuant to my call, for those proceedings, asking him to produce the records of the miners' conventions and the records of the joint conferences between the miners and the operators. Then Mr. Green was asked to identify those proceedings and he did first identify the proceedings of the conventions of the Mine Workers, and he stated in answer to my questions that those were the reports of the conventions for the years 1900 to 1916, as we have them on file, and I asked him if he had any more
949 formal copies of those proceedings than those which he had produced, and he answered no, sir.

"Q. Those are the ones which you have in the office and are for the purpose of reference and authority? A. Yes, sir. There may be one volume missing there".

The Court: I remember about that.

Mr. Drinker: Then I asked him to identify the joint conventions on pages 204 and 205,—no, on pages 205 and 206, "I hand you the bound printed volumes produced by you in response to the call as above stated, these volumes purporting to contain joint conferences of miners and operators, C.

O. and C. N. 1901, 1902, 1903, 1904, 1906, 1908, 1910, 1912 and 1914 and 1916, marked Exhibits 30a to 30h, inclusive, and ask you to state what they are. A. These are copies of the proceedings of joint conferences of miners and operators of the central competitive districts held during the years 1901, 1902, 1903, 1904, 1906, 1908, 1910, 1912, 1914 and 1916."

Then my statement that the proceedings, with the two sets of books, was not accurate, and I wish to correct that. And I wish further to say that these books, these joint conference proceedings were not offered, and were not admissible, because they were records of those conventions,—but they were admissible to prove the statements of the people that were made at that time. And the way that I had planned at that deposition, and questioned M. Green as to the verification of those records, was not as copies of originals, but it was to get Mr. Green to verify them as the statements that were made at the time. He said on page 237 of the deposition,

"Q. How many of those joint conferences have
950 you participated in in this Central Competitive Field?
A. I have participated to the best of my recollection in every joint conference of miners and operators in the Central Competitive Fields since 1900."

And again on page 268 he said with reference to those, "Now these agreements, this agreement of 1912 and similar agreements as to which you have testified and as contained in these printed proceedings, were the results, were they, of the deliberations in those joint conferences which you have spoken of? A. You are referring now to the proceedings of the joint conferences of miners and operators?
Q. Yes, sir? A. Yes, sir, they are the reports of — they are the verbatim report of the arguments, discussions and propositions and what took place."

He stated that he was present at all of the conferences at which I offered extracts and there are the reports of the conferences. In other words, Mr. Green verified that these people had made these statements in these books. Furthermore, the volumes were produced on my call from the records of the United Mine Workers, by the officer of that organization who stated he had charge of the records. They were produced by him from the United Mine Workers as the records of those proceedings. That makes them, in the first place, as far as the United Mine Workers are concerned, the official minutes of those proceedings.

When you call for the minute book of a corporation it is no objection to that minute book,—it is admissible,—that it was copied from the notes the secretary himself takes in the first place.

951 The Court: Why this argument, Mr. Drinker? What is there before the court? You have stated your position. It is not necessary to argue it. Proceed.

Mr. Warrum: If the court please, the defendants severally move to strike from the records, the excerpts introduced by counsel from the joint conference reports, on the statement just made by counsel that these are used by plaintiffs' counsel as memoranda. On the theory the defendants assume that thereby they become mere hearsay, and it is necessary that they be introduced in connection with the examination of the defendant Green so that he may be present and be cross-examined as to each particular speech or debate or excerpt introduced. These cannot be independently introduced in evidence.

The Court: I think the motion is well taken, but I will not rule on it at this time definitely.

Mr. Drinker: We offer from the proceedings of the joint convention of 1912, being Exhibit 30f, page 235, from the statement of Mr. Maurer, in the middle of the page, beginning, "Organized labor" to the end of the page.

Mr. Warrum: To which the defendants object for the reasons given previously to the introduction of portions of the joint convention proceedings.

The Court: Objection overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Mr. Hull (reading):

952 "Organized labor should be interested in organized fields. Comparative organized labor in this field is making as much money as in any other, or more. Let organized labor announce to capital, to Wall street, if you please, to the great railroad corporations the operators of Ohio and Pennsylvania have commenced to fight—that are independent, that are not controlled by the railroads or anybody else —"We are going to stand with them shoulder to shoulder, and every time you invest a dollar in nonunion states we are going to help wrest it away from you, we will help through the government, we will help our operators through our

votes." When you commence that policy you will commence to make that long productive line in West Virginia that has been growing crumble and shrivel away. But you will not do it by taking away from us everything we have done along the right lines.

Now, gentlemen, this competition is here. It ought not to be a fight. I don't like to hear men on that side of the house, with these conditions actually staring them in the face, with that line indicated growing, and growing, and growing, I dont like to hear them state, "We are ready to strike for our rights." I want you to say, "We are ready to strike for our rights," and include this side of the house. We are doing our duty, we are fighting to prevent West Virginia increasing her tonnage; and if you treat some of your operators in this field with the consideration they are entitled to you might get those same operators to treat you with the same consideration when you come over to West Virginia."

953 Mr. Drinker: From the same volume, page 245, the statement of Mr. White, the last full paragraph on the page.

Mr. Warrum: To which the defendants renew their objection.

The Court: Objection overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Mr. Hull (reading): "We are anxious to establish the organization in the West Virginia fields and the other nonunion fields as the gentlemen on the other side of the house are to have us to do. But constantly holding that state up to [tidicule] will not help us do it. I believe, on the contrary, it will militate against a final solution of that proposition. As has been pointed out times without number, West Virginia has no markets within the state, and if it were thoroughly organized of necessity it would have to find markets outside the confines of its own commonwealth. Nature has favored the little mountain state with an inexhaustible vein of coal, of high quality and good mining conditions; but the operators there have been successful in defeating the aims and purposes of the United Mine Workers to a large extent, although no one can deny that under the various administrations of the organization every effort has been put forth to try to break down the conditions that are complained of here by the other side."

954 Mr. Drinker: From page 254, the statement of Mr. Walker of Illinois, the top paragraph.

Mr. Warrum: To which the defendants separately renew their objection.

The Court: Objection overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Mr. Hull (reading): "The places that are nearest the nonunion mines, of course, have got to be the ones really that are up against the strongest competition. They are the ones where the situation is the most serious—and I dont care whether you leave it as it is now, and we will say West Virginia and Kentucky are the worst places—if you will organize West Virginia and disorganize the fields that are organized now, the shoe will be simply put on the other foot. If you organize Kentucky and disorganize Indiana tomorrow morning the thing will be reversed and men from Kentucky can make the same argument you are making now. Until every mine is organized and joint agreement reached covering them that is fair that will be true. There is the place the shoe is going to pinch the tightest. And, like a young lawyer who got his first instructions from that old judge Harry Taylor mentioned, you have carefully picked out the point you are arguing from. When the young lawyer was going t otake his first case the old judge advised him, "If you have a good case from the point of law, argue from the point of law. If you have a good case from the point of equity, argue from that point. And if you havent either law or equity, wrap the American flag around you, waive it a couple of times and appeal to their patriotism."

955 Mr. Drinker: From the same volume, page 274, the statement of Mr. Chapman, beginning with the words "When we met in Chicago" and ending with the words "double the output of Ohio coal."

Mr. Warrum: To which the defendants separately renew their objection as heretofore.

The Court: Objection overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Mr. Hull (reading): "When we met in Chicago in 1898 and reestablished the Interstate movement the competition from nonunion fields was the element, gentlemen, that en-

tered into negotations in the adoption of the scale that was made there. It was agreed to by both sides, and the question also of the ability of the miner to earn a fair day's wage for the labor he performed entered into it. At that time the miners were receiving 56 cents per ton for producing coal. I made motions in that convention that increased the day wage scale.

"It was understood in that convention, although it was not placed in the agreement, that the miners of the competitive field of the four states were to bring the non-union fields up to the price paid for mining in those states, and unless they secured the adoption of an eight-hour day at the next convention the competitive field was to be relieved of these burdens. That was not in the agreement. Unfortunately, gentlemen, the proceedings of that convention were not published. If they were published it would be found that the President of the United Mine Workers and the gentlemen who aided
956 and assisted him in bringing about the results there agreed that they should be relieved.

"The conditions that establish this joint movement, gentlemen, were that justice, right and equity should be practiced on the part of the operators toward the miners on these questions; and, on the other hand, that the miners should treat the operators in the same manner, and the question of the prices of coal and the competition that existed were the sole questions that entered into the discussion there. We were there for weeks before we finally succeeded in accomplishing the results we did.

"Now, gentlemen, when you look at 1897 as compared with 1911 you will find the nonunion states in competition with Ohio have increased their production. The state from which the keenest competition comes has increased its production 350 per cent, or 25 per cent annually for the fourteen years; and Ohio, the state that is the mother of the organization, the state whose operators have ever been loyal to the organization, has increased barely ten per cent a year. That is the record for our state, while this one state has increased annually for the fourteen years, taking the average of 25 per cent, and more than double the output of Ohio coal."

957 Mr. Drinker: From the miners' convention proceedings of 1912, from the report of President White, the last two full sentences on page 32.

Mr. Warrum: To which the defendants separately renew the objections heretofore made.

The Court: Objection overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Mr. Hull (reading): "The importance of maintaining the union in District 15 and securing a thorough and complete organization of the entire district scarcely needs any argument. The Miners of Montana, Wyoming and the Southwest realize its importance from a competitive standpoint."

958 Mr. Drinker: From the Journal of September 26th, 1912, page 6, the bottom of column one, entitled "From Illinois", through the words "time is now", on the ninth line of column two, together with the signature at the end.

These present offers, which have been made so far today, and which will continue until I indicate, are part of the same purpose I indicated yesterday when I began this line of examination.

Mr. Warrum: To which the defendants separately renew their objections heretofore made to the introduction of any extracts from the Miners' Journal.

The Court: Objection overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Mr. Hull (reading): "From Illinois.

"Our Duty, To Help West Virginia.

Belleville, Ill., Sept. 19.

"West Virginia has always been the barrier to our progress, a dagger in the heart of the United Mine Workers of America, by its unorganized condition.

"In every interstate joint conference between the Miner and Mine Owners the latter have raised West Virginia as the battle cry against our demands. The vast amount of nonunion coal that is mined for practically nothing in that state has made inroads in the markets that rightfully belong to the central field to such an extent that we have reached the limit of our progress in the way of higher wages and better conditions. The east must be brought up! And if there ever was a time to withdraw that dagger from our hearts and
959 forever wipe out that cry of "Cheap Coal" from West Virginia, that time is now.

"ADOLPH GERMER."

960 Mr. Drinker: From the Miners' convention proceedings of 1914, being the report of the treasurer for that year, on page 158, under the heading "Expenditures, Salaries and Expenses", etc., for the year 1913. With regard to the expenses of A. F. Germer. This is offered for the sole purpose of showing that A. F. Germer was an employe of the national organization.

Mr. Warrum: To which the defendants separately object for the reasons heretofore given in their objection to the introduction of any extracts from the reports of the Miners' conventions.

The Court: Objection overruled.

To which ruling of the court the defendants, and each of them then and there duly excepted and still except.

Mr. Drinker (reading):

	"Amount Paid	Expenses	Salary
A. F. Germer.	$2665.50	$1367.50	$1248.00"

961 Mr. Drinker: If the court please, I may be a little slow in offering these extracts for the reason that I did not have access of the books until a short time before the court convened this morning.

The Court: The books must be left here so that they will be at all times easy of access to counsel.

Mr. Warrum: They are subject to their examination at any time. We have not taken them without asking the consent of the other side. Mr. Grant and I sat up last night until two o'clock this morning going over this matter, and we have asked counsel if we might take these books, and we will not take them without their consent.

The Court: Very well.

Mr. Drinker: From the joint convention proceedings of 1912, the list of delegates. On page 7, Western Pennsylvania operators, W. K. Field; Ohio operators, E. E. Maurer, S. H. Robbins; Indiana operators, P. H. Penna; Illinois miners, Duncan McDonald; Illinois Miners, John H. Walker.

From the joint convention proceedings of 1914, being Exhibit 29p, page 127, the statement of Mr. Maurer, the bottom paragraph of page 127, through his statement on page 128.

Mr. Warrum: To which the defendants separately renew their objection heretofore made to the introduction of extracts from the joint convention proceedings.

The Court: Objection overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Mr. Hull (reading):

962 "But I want to tell you what this means. We have built up an industry in Ohio and we have built it up over the strongest competition any state of the four ever had. We built it up, boys, by your efforts and our efforts, your efforts in compelling your men, the members of your organization to give us a coal that will stand up on the great lakes in competition with any other man's coal, that will meet the competition of West Virginia, that will meet the competition of Kentucky. And you are entitled to credit for that. We found the market and worked for it and you gave us the coal that would meet that market's conditions. It is our industry —we built it up together.

"Four million tons of that coal alone from Eastern Ohio was marketed on the lakes, went to the docks in the Northwest, were distributed among the railroads. If you do not believe me when I tell you what the results will be, take the testimony of that old man who is the representative of the Omaha Road, who has done more for the coal industry of Eastern Ohio than any combination of men ever did. I refer to McDonald, the inspector of the Omaha Road. McDonald said: "When Ohio coal is prepared as it is now it is a splendid coal; but it stands in the balance and if there is [an] degradation from its present standard the Omaha Road alone will cut out 700,000 tons." Gentlemen, these are not my statements; these are the statements of the man who nine years ago, when our representative at the head of the lake tried to sell him No. 8 coal, said they could not use it. That man afterwards was persuaded to come down here, and how many of you men have seen
963 him around the mines in Eastern Ohio, calling out your pit committees, telling them, "Now, boys, if you persist in loading coal this way we cannot use it; but if you load it right we can." He went around the mines this year, he picked out the mines that could ship coal to the Omaha Road and he picked out the mines that could not. Why? Because the men in those mines had not done their part of the work."

"Now, gentlemen, take away the restriction, and not only four million tons of coal from Eastern Ohio will be out of the

market, but coal from all over the state. It is a serious problem. We have done the best on our side of the house to prevent this crime being committed. If it were not for the peculiar use to which our coal is put there might be circumstances that would excuse it; but we stand here on the border land of West Virginia and Kentucky, where the owner of the property has absolute control of his mines, where the man who shoots his coal too hard or the man who loads out the impurities or the man does not obey the orders of the superintendent or the mine foreman has no appeal, he walks the plank."

964 Mr. Drinker: From the same volume, page 242, the statement of Mr. Maurer, next to the last paragraph.

Mr. Warrum: To which the defendants make the same objection.

The Court: Objection overruled.

To which ruling of the Court, the defendants, and each of them, then and there duly excepted and still except.

Mr. Hull (reading): "Eastern Ohio meets on the right hand side Pennsylvania. Across the river to the southeast nonunion West Virginia. Across the river to the south and southwest, Kentucky, again nonunion, and that coal has to go into the markets that their coal goes into, and I want to go that if Mr. Green with all his ingenuity can find some system by which you could get more for your product than your competitors can, then he is very foolish to waste his time, for I am sure he could command a very large salary with any of the coal companies who have been striving for years to arrive at that position."

965 Mr. Drinker: From the Miners Convention—from the same volume, on page 6, so much thereof of the list of the people present as shows that C. E. Maurer was an Ohio operator.

From the Miners Convention for 1914, Vol. 2, Exhibit 29 B, page 1074, the middle of the page, beginning with the words, "Delegate Jackson", through line one of page 1075, being a resolution introduced to the convention, and its adoption by the convention.

Mr. Warrum: To which the defendants renew their objection, to the introduction of extracts from the miners conventions.

The Court: Objection overruled.

To which ruling and action of the Court, the defendants, and each of them, at the time duly excepted and still except.

Mr. Hull (reading): "Delegate Jackson, District 23, obtained unanimous consent to the introduction of the following resolution:

"Organizing Hopkins County, Kentucky.

"Indianapolis, Ind., January 24, 1914.

"To the Officers and Delegates of the Twenty-fourth Consecutive and First Biennial Convention, U. M. W. of A.:

"Whereas, the members of our union, District 23, Southwestern Kentucky, being in direct competition with nonunion fields, Hopkins and adjoining counties, and who have had a bitter struggle for fifteen years to maintain and keep our organization in District No. 23; therefore be it

"Resolved, that the International Convention now assembled assist us in organizing Hopkins and adjoining counties,
966 both morally and financially, at the earliest possible date.

"L. B. WALKER, President.

"J. A. SWEENEY,
L. U. No. 2783, Nelson, Ky.

"LONNIE JACKSON,
L. U. No. 1152, Baskett, Ky.

"C. K. WATKINS,
L. U. Nos. 645 and 1136, Island, Ky.

"OSCAR MOONEY,
L. U. No. 2870, Drakesboro, Ky.

"The resolution was adopted by unanimous vote."

967 The Court: How much more of this line of testimony have you, Mr. Drinker?

Mr. Drinker: Only about three more items.

The Court: You should proceed to some other line, if there is much of it.

Mr. Drinker: There is not much of it.

The Court: If there is, I would consider a motion to strike. This morning opens up a field that was not offered yesterday.

Mr. Drinker: It was not intended for any other purpose.

From the same volume, on page 1116, part of the statement by President White.

Mr. Warrum: We renew the last objection.

The Court: Objection overruled.

To which ruling of the Court, the defendants, and each of them, duly excepted at the time and still except.

Mr. Hull (reading): "You passed resolutions here yesterday favoring the policy of going into nonunion fields. You adopted unanimously a resolution in behalf of our Kentucky brothers, to extend the organization there as soon as you can shape the course of our great movement so that it can be done; and I am longing for the time to come when the strikes that have taken our time and our money have subsided and we can enter the nonunion fields, not only for the benefit of the Kentucky miners, but for the Illinois and Indiana miners and for others I might enumerate. The production of coal in the nonunion fields is increased because of the conditions we create in our well organized fields; and then we make it doubly hard to go into these fields and organize them because we favor
968 them with this increased production and they have taken our markets because they are on an unfair competitive basis."

969 Mr. Drinker: From the final—this is the last one of this general line. From the proceedings of the Special Convention of the United Mine Workers, District 21, held Monday, May 18, 1914, produced by the defendants, page 12, addressed by International President White, and also an extract on page 15.

Mr. Warrum: To which the defendants renew the objection heretofore made that the introduction of extracts from the reports of miners conventions, and the additional reason that yesterday they read from this speech of Mr. White, as president of the International Union to the special convention, and they should have read all that they wished at that time from that speech.

The Court: That is true ordinarily, but at the same time this is a matter of impression—

Mr. Drinker (reading): "Now, a great many of you men realize how much the organization of Colorado is to the progress of the Southwest. The great energies of this movement have been spent in recent years, in my mind, in the strong organized districts. We have been engaged in strife and internal warfare among ourselves in the great organized districts

so much that the operators in the nonunion fields had their own way with everything, so in order to bring about a complete change in our policy, and to extend the lines of our movement into these fields, we had to changs that policy, and find some means to enter these fields and get in touch with the men mining coal in these sections."

"You men in the southwest will appreciate more than any other class of men the establishment of the union in Colorado and New Mexico, for with the fall of Colorado, New Mexico must fall in line."

970 That is all of that line, except reserving the right of those parts in that missing book, extracts in that, but that is all we have here.

Now, the next line of examination opens up a new proposition, with a new purpose, and if your Honor will permit me I will state briefly the object of it, and the reasons for it, so it may be entirely before your Honor.

The United Mine Workers Journal has contained for a number of years articles in which the United Mine Workers, as the supervising editor of that paper, have described certain events purporting to be, and stating by them to have happened in connection with their activities in certain strikes. Take the Irwin strike in 1910 and 1911, for the beginning, for that is the first one to which this will have reference. Now, those articles describe, or purport to describe activities by representatives of the United Mine Workers in connection with the furtherance of those strikes, which, on the face of the articles are not justifiably legal. That is, they advocate violence in connection with strikes, openly, and describe actions by the miners, which on the face of them, could not be reconciled with any legal activity. Now, we are going to offer articles of that kind, not for the purpose of establishing any fact relating to those articles. It is not our purpose or intention in this case to go into the merits of the strikes at Irwin or any other field, except this one. We don't care whether these articles are true or not true, but in fact we contend, for a large part, they are true. That is our belief, but it is immaterial. We don't offer them to establish that, but the reason we offer them
971 is this, that under the organization of the United Mine Workers, your Honor will remember in the constitution under the heading "Strikes" that strikes are divided into several classes, and Section 1 of that article—perhaps I had better get it,—it is article 16, relative to strikes, and the first important part is as follows: "No district shall be permitted to engage in a strike involving all or major portion of its mem-

bers, without the sanction of an International Convention, or International Executive Board." Now, that is one kind of strike, which involves all, or the major portion of the members in this district. In this district it would involve all or the major portion of miners in Texas, Oklahoma and Arkansas. The—"Districts may order local strikes within their respective districts on their own responsibility, but where local strikes are to be financed by the International Union, they must be sanctioned by the International Executive Board." Now there is another kind of strike, local strikes that the district, or which the district officers are authorized to order on their own responsibility, and the inference is they don't have to go back and get authority for that strike, unless they want financial help from the International Union. Then, Section 3, "Strikes shall not be called in any unorganized field without the sanction of an International Convention or the International Executive Board, and no financial aid shall be furnished by the International Union for the support of any strike until after the strike has been in effect four weeks, unless otherwise decided by the International Executive Board."

Now, there is another kind of strike, which has to be
972 ordered, or sanctioned by the International organization. That is a strike in an unorganized field. We have four kinds of strikes; first the strike which involves all or a major portion of the members in the district. Second, a local strike which may be ordered without previous authority; the first must have previous authority, and the second without previous authority, unless they want money from the International, and then they have to have authority, and the third and fourth, the strikes in an unorganized field. If it is all, or a major portion of the district, of an unorganized field, [of] they want money, they have to go back for authority, but if this is a strike in a local field, and they don't want money, they can do it without authority.

Now, our position is that this was a strike in an organized field, and whether they asked for money or not, we don't know, but it is a local strike in an organized field, so that the district officers, by this constitution, are delegated authority to start that, without going back for authority.

Now, the question might arise, and we will contend that under the constitution of the United Mine Workers of America, the members and the locals and the districts were the agents of the International to run a strike, and that whatever they did in connection with strikes, which was the business of the organization, of course this is all new, and

we won't be able to give your Honor much authority on it, but under the well recognized principles of agency, whatever their representatives, the members of the International Union, because they are all that, do, in connection with strikes, which is provided for in the constitution, was
973 an act of the International Union, and found the International Union, without any direct evidence of authorization of that particular strike from Indianapolis or the International office.

We are going to show that that is our case against the International Union, and we are going to connect them up wherever possible. Now, the question—we will also contend, that we don't need any express authority to conduct a strike in a local district like this; that Peter Stewart did not need any express authority to use violence in this strike to bind the International, because under the well recognized rule, that if an agent is doing what the principal says, it is engaged in the course of his employment and makes a mistake in judgment, his principal is bound, the same way that a conductor is held liable for putting a person off of a train, if he does it with violence, but we want to show that impliedly the International organization had authorized their agents to use methods they did in conducting strikes. We propose to do it in another way. The way we propose to do it is by showing that [they] International Unions, through its official organ, the International Journal, described violent methods as having been used in strikes, which were conducted by the International organization, being strikes in unorganized fields, and matters of that kind, and that the Journal had come down here to be read by all these secretaries, and there could not have been a better way for the Journal to have acquainted the members with how to conduct a strike than by the Journal of three or four years, as [how to] these strikes were conducted.

974 We propose to offer these articles in the Journal, but as proof of the facts stated, it don't matter whether the facts are true or false, but merely as evidence of the methods of which the International Union held out to its officers of the ways that the International conducts a strike. Now, that is the sole purpose for which we offer these articles. We don't intend, and have no idea of opening up the merits of these others strikes. The records in those fields are so voluminous it would take months to try those issues, and we don't invite such issue here. We don't intend that this strike, that the miners did wrong here, because they actually did wrong some place else, or that the other side

can contend that the operators did wrong here because the operators did wrong some place else. That is immaterial. This line of testimony is offered solely for the purpose of showing that the United Mine Workers of organization held out to their membership an example for them to follow in conducting the kind of strikes which by the constitution they were authorized to conduct.

Now, we would offer several general statements from the United Mine Workers Journal to show the attitude of the National organization in reference to strikes, and from the Journal of the 21st of July, 1910, page 1, from the middle of the page, President Lewis signed statement, signed statement by President Lewis, reviewing the mining situation. The third and fourth paragraphs from the bottom of that statement.

Mr. Warrum: The defendants separately object to the reading of the articles from the Miners Journal, for the reasons heretofore given, and for the additional reason,
975 based upon the statement by the counsel for plaintiffs to the Court, in his offer of evidence, that these are records relating to other organized districts, or other strikes in organized districts, and it would necessarily involve a determination as to the character of the strike, and it would necessarily put into the controversy the facts referred to in such articles. The articles themselves are not admissible, being articles in a newspaper and I say are not admissible, but in the statement of plaintiffs counsel to the Court, the theory of plaintiffs complaint is that there are three separate entities or personnel and the quasi corporation involved in this suit; one, the United Mine Workers of America, alleged to constitute the sum of 450,000 mine workers, operating under the constitution, and national autonomy; 120,000 which are anthracite mine workers, not engaged in bituminous mining at all. In addition, there is District 21, which operates as an autonomy of its own, discharging its functions, subject however to the constitution and supreme laws of the organization, but it is within its own jurisdiction supreme, and the local that operates within that jurisdiction, is supreme within its own jurisdiction. We further object to the articles offered by plaintiffs counsel, do not tend, referring to the matters of July 10, 1910, it does not tend to throw any light upon any contention of the plaintiffs, with regard to the proposition that the strike was carried on in Prairie Creek by the union involved, or by District 21, or by the United Mine Workers of America, or by their authority, or that any violence there involved, as

alleged in the complaint, was produced or cause or
976 brought about by the International organization which is an entity of its own, so recognized in the complaint, and which has a well defined sphere of action, and manner of appointing its agents, and exercising its authority, and ratifying it.

The Court: Under statement by counsel of plaintiffs, the Court will rule, that this is not evidence, either establishing or tending to establish the fact any allegation alleged in the complaint. I know no rule of law that will allow an inference to be drawn from the acts of any person or set of individuals, because of publicity given by them to acts, under some sort of condition, some time before, regardless of the year, or for them to accept that sort of thing on the doctrine of authorization, is restricting that rule of evidence far beyond any rule that this Court knows of.

Mr. Drinker: Will your Honor hear me?

The Court: In the way of authorities, but you have stated your purpose.

Mr. Drinker: It is a very important branch of our case, and I wish to impress it on your mind—

The Court: You have made your statement, now if you have any authorities I will hear you.

Mr. Drinker: I am going to refer first to the elementary rule of law, and then I will cite you some authorities on this question.

Now, there is a line of cases to which it would not be necessary to refer specifically, because your Honor is very familiar with them, that where there is a question of authority of an agent to go a given act, it is proper to show that the principal has previously ratified similar acts, of sim-
977 ilar nature.

The Court: Of the same agent?

Mr. Drinker: Of an agent having similar authority, and acting under similar conditions. Now, that is the gist of this whole thing.

The Court: The trouble is, you are going to open up for this jury to determine, and for the Court to determine, the conditions under which all of these statements were made. Now, I am of the opinion that has no relevancy here at all,

and I don't think you can make that proof in that way. I have opened the doors pretty widely, and you have gone on three or four days, and I get at your idea, and I want it understood that this Court is of the opinion that when you come into a court of justice, you cannot try your case in the light of theories. Theories are all right, if you have the facts, but a simple theory with no basic testimony based upon the well known rules of evidence, don't prove a case. Now, you can spin a theory of ratification, because some time or another a strike had been ordered and certain actions ratified or endorsed, and therefore a person who is afterwards a member of the organization did an unlawful act, he acts within what he thought was his authority, and had reason to think so, but that is not evidence. Now, if there is any liability here, it is because of the well defined purpose, and intent on the part of these people to do the thing that you allege was done, and if there as any action here by this local board, this local organization, there ought to be testimony connecting them with it directly, and with reasonable certainty.

978 No, I may say right in that connection, that the Court will entertain a motion of striking out all of this testimony that has been introduced with reference to all of these Journal items, as having been no foundation laid for it.

Mr. Drinker: Perhaps I had better describe these articles a little more particularly. They describe acts which the United Mine Workers, as an International organization, makes itself responsible for, the violence in connection with with similar strikes, for which there is no justification.

The Court: Then you have to go into that whole question, to determine that, and your statement of it don't make it true.

Mr. Drinker: It is not offered because it is true.

The Court: That is why it is not testimony.

Mr. Drinker: But, it is offered in the nature of an authorization by the United Mine Workers to their membership, to do things, and it is just the same, or amounts to the same thing.

The Court: Under what conditions?

Mr. Drinker: Under similar conditions.

The Court: How are you going to prove it?

Mr. Drinker: Because the articles show that they were under conditions that are similar.

The Court: There you are, and that opens the whole field.

Mr. Drinker: We don't understand that they would be entitled to show, under this article, what actually happened in West Virginia, or Colorado, but they can show from the Journal articles that show that when 1200 men went to a mine, and burned it up, that they decriy that sort of thing, and do not approve of that way of conducting
979 a strike, but the point is, that they describe this act as a proper one to their membership, and another thing that these articles show, that there are other articles by organizers here, accredited to people in their organization, that openly advocate violence. That is certainly proper for us to show.

The Court: But what are you offering here now?

Mr. Drinker: That is part of the same thing.

The Court: On this article, I will have to rule upon this line, and my judgment is it is not admissible, and that the objection is well taken and the objection is sustained. You might as well get at that same proof with reasonable certainty, and within the well known rules of evidence, that you can prove the case, if there is any case here, by evidence that is admissible under the rules of evidence. I am satisfied that this is not competent for any purpose.

Mr. Drinker: There is a line of authorities from the Federal Court, which distinctly hold that where a labor organization, where it has notice that its members have participated in illegal acts, that it is responsible for their acts, unless it takes some disciplinary action.

The Court: That is not the question here at all, you are introducing what they done with reference to other matters. If it comes to a question of knowledge of this superior organization of what these people did there, what they did becomes very material within that knowledge, or what they did not do. You may even infer by their not doing the things that they ought to have done, possibly, that the superior authority had knowledge they did, but what has that
980 to do with what they did five years ago with reference to some other strike, under conditions that can-

not be known, except by going into detail on your part, and the part of the defendants. I suppose you catch my idea?

Mr. Drinker: Our thought was that they did know, because—

The Court: But, this doesn't show it, and has nothing to do with that issue.

Mr. Drinker: In order to get the record straight, may I make an offer in connection with this entire line of testimony?

The Court: Yes, sir, the offer was made, was it not?

Mr. Drinker: The offer I just made covered one item, and in connection with the one field, and I would like to make it in connection with this entire line of proof.

The Court: Very well, so you can have your question preserved.

Mr. Drinker: Now, the plaintiffs offer to show by means of extracts from the United Mine Workers Journal, the official organ of the United Mine Workers of America, for the years —during the years 1910, 1911, 1912, 1913 and 1914 to July 16, 1914, that there was published in the United Mine Workers Journal, from time to time, numerous articles, editorials, news items, cartoons, and authoritative statements by the International officers of the United Mine Workers, describing activities in connection with strikes of the Irwin fields of Pennsylvania, and Vancouver; and the West Virginia strike in 1912 and '13, and in the Colorado strike from 1910 up to the period of July 16, 1914, describing activities of defendants acknowledged representatives of the International organization,
981 the United Mine Workers, in connection with those strikes, which on their face are [incompatable] with the legality of the actions therein described. In other words, stating as facts, that the representatives of the United Mine Workers, in connection with these strikes, have been engaged in the destruction of the life and the property, in the course of their employment in the strikes, which is at the time being conducted by the International organization.

Mr. Warrum: We would like to now object to the form of this offer, because it relates to printed matter, and is no offer at all.

The Court: It is an offer of proof.

Mr. Warrum: I imagine that the article itself would be offered, and not what plaintiffs counsel may state—

The Court (interrupting): I think the Court may hold that you may present your offer, and I will rule on them separately, and you will then have them in the record.

Mr. Drinker: We offer from the United Mine Workers Journal of July 21, 1910, page 1, statement by President Lewis—a short paragraph from the bottom of the statement.

Mr. Warrum: We object to the offer for the reasons just given—do you want them renewed?

The Court: Did the reasons go into the record?

Mr. Warrum. I stated formally my reasons at some length.

The Court: Are the objections in the record?

The Stenographer: His objection a moment ago is.

The Court: Then, your objection now is for all the reasons heretofore given?

Mr. Warrum: Yes, sir, for all the reasons heretofore
982 given.

The Court: Objection sustained.

To which ruling and action of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Mr. Drinker: I had not finished. I wanted to state the purpose for which that offer is made, because it is a little different in each case. It is for the purpose of showing that the President of the United Mine Workers recognized that violence always attends strikes of any magnitude.

Mr. Warrum: Now, at the conclusion of the offer, we renew the objection heretofore made.

The Court: Objection sustained.

To which ruling and action of the Court, the plaintiffs, and each of them, at the time duly excepted and still excepts.

Mr. McDonough: I suppose the stipulation of yesterday would cover an exception where testimony is excluded?

The Court: To any and all rulings.

Mr. Drinker: From the United Mine Workers Journal of May 18, 1911, page 4, column 3, under "Editorial Notes", the last item in the column, beginning with "We often hear" to the last words in that column. That is for the purpose of showing that the International organization of the United Mine Workers was in favor of violent action towards the men

who were brought in to take the place of union men in the strikes, otherwise known as scabs.

Mr. Warrum: The defendants [renews] the same objection.

The Court: Objection sustained.

To which ruling and action of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

983 Mr. Drinker: From the same volume, from the Journal of August 11, 1910, page 4, at the bottom of column 5, the article or paragraph, last complete paragraph under Article 5, beginning with "Southwestern" and ending "not to do", in order to show a statement by the International union as to intimidation in connection with an attempt by operators to operate open shop.

The Court: Where?

Mr. Drinker: At Hartford, Arkansas.

The Court: That has no connection with this?

Mr. Drinker: No, an entirely different strike, four years before.

Mr. Warrum: The defendants renew the same objection.

The Court: Objection sustained.

To which ruling and action of the Court, the plaintiffs, and each of them, at the time duly excepted and still excepts.

Mr. Drinker: From the Journal of the same day, August 11, 1910, on page 1, the top of column 6, an article entitled "Open shop the operators threat", through that article, for the purpose of showing in connection with a labor dispute in District No. 21, the statement by President Stewart of that District, relative to pending trouble in case the men would strike there.

Mr. Warrum: The defendants renew the same objection.

The Court: Objection sustained.

To which ruling and action of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

984 Mr. Drinker: From the Journal of October 6th, 1910, page 4, column 6, the fifth paragraph from the bottom, for the purpose of showing the statement, under the "News Notes" there, that the operation of an Arkansas operator, non-union, proved to be a costly experiment.

The Court: That has no connection?

Mr. Drinker: None of them have any relation to this strike, but to other strikes.

The Court: Let the record so show.

Mr. Warrum: The defendants renew their objection.

The Court: Objection sustained.

To which ruling of the Court, the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Drinker: From the Journal of May 26th, 1910, page 1, the official circular, the third paragraph from the bottom, three lines, for the purpose of showing that the Irwin strike had been endorsed by the International.

Mr. Warrum: The defendants renew their same objection.

The Court: Objection sustained.

To which ruling of the Court, the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Drinker: And from the Journal of August 18th, 1910, page one, the middle column, the second sentence of the fifth complete paragraph, for the purpose of showing that Irwin strike was not ordered by the International organization but supported financially by it.

Mr. Warrum: The defendants renew their same objection.

The Court: Objection sustained.

To which ruling of the Court, the plaintiffs, and each of them, then and there duly excepted and still except.

985 Mr. Drinker: From the Journal of February 9th, 1911, page 6, about one-third of the way down column 2, resolution endorsing, by the convention, the Irwin strike.

Mr. Warrum: The defendants renew the same objection.

The Court: Objection sustained.

To which ruling of the Court, the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Drinker: From the Journal of June 23rd, 1910, page 4, the first editorial, or next to the last paragraph, a description of certain conditions in connection with the Irwin strike.

Mr. Warrum: Defendants renew their objection.

The Court: Objection sustained.

To which ruling of the Court, the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Drinker: From the article of June 30th, 1910, page 4, editorial, the first editorial entitled "The Outlook", the third paragraph from the bottom of the editorial, for the same purpose.

Mr. Warrum: The defendants renew their same objection.

The Court: Objection sustained.

To which ruling of the Court, the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Drinker: From the Journal of the 7th of July, 1910, page 1, column 3, line 6, from the word "of" in the sixth line, through the paragraph, for the purpose of showing the policy of the United Mine Workers organization to disobey injunctions in connection with labor disputes.

Mr. Warrum: The defendants renew their same objection.

The Court: Objection sustained.

986 To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Drinker: And an editorial on page 4, entitled "The Strike Situation", the fourth paragraph from the end of the editorial, for the purpose of showing the endorsement by the International Union of that article, which was written by a District officer.

The Court: What is the date of that?

Mr. Drinker: 1910, in connection with the Irwin strike.

Mr. Warrum: The defendants renew their same objection.

The Court: Objection sustained.

To which ruling of the Court, the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Drinker: From the Journal of August 4th, 1910, page 3, the right hand column, 6, entitled "News From The Irwin Field", the entire article, for the purpose of showing the advocacy of the Journal of bullets rather than prayers, violent methods.

Mr. Warrum: The defendants renew their same objection.

The Court: Objection sustained.

To which ruling of the Court, the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Drinker: From the Journal of August 11, 1910, page 1, column 2, or next to the last item in the column, entitled "Miner Shot Dead In Strike Riot", through that article for the purpose of showing a combat between the representatives of the United Mine Workers and State Officers.

Mr. Warrum: The defendants renew their same objection.

987 The Court: Objection sustained.

To which ruling of the Court, the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Drinker: Now, the next set of offers will be in connection with the West Virginia strike, offered for the same general purpose.

From the Journal of November 7th, 1912, on page 4, the first editorial,—the last paragraph, paragraph three from the end, with four lines in it, the last sentence of that paragraph, for the purpose of showing that the West Virginia strike was supported by the International organization to the extent of its resources.

Mr. Warrum: The same objection.

The Court: Objection sustained.

To which ruling of the Court, the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Drinker: From the miners' convention proceedings,—

The Court: If the plaintiff objects, just to say the plaintiff objects means nothing.

Mr. Warrum: We renew our same objection.

The Court: Objection sustained.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Drinker: From the joint conference proceedings of 1910,—never mind that.

988 Mr. Drinker: From the Journal June 20th, 1912, page 1, column 5, the article entitled, "Thugs Slug An Organizer", for the purpose of showing by reason of this fact three thousand miners in Colorado were taking the enforcement of the law into their own hands.

Mr. Warrum: The defendants make the same objection.

The Court: Objection sustained.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Drinker: That first paragraph.

From the Journal of August 1, 1912, page 1, column 4, the article entitled, "Terror Reigns In West Virginia", for the purpose of showing a combat between the militia and strikers in that section, which was incompatible with the theory of self defense on the part of the miners.

Mr. Warum: Same objection on the part of the defendants.

The Court: Objection sustained.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Drinker: From the Journal of the 8th of August, 1912, page 1, article by G. H. Edmunds, entitled, "Bloody War In West Virginia", for the purpose of showing acts by the representatives of the United Mine Workers in connection with battles between the miners and the militia, which contain actions by the miners incompatible with the doctrine of self defense and for the purpose of showing the advocacy by the writer of that article of violent methods in connection with those proceedings.

Mr. Warrum: That is one offer?

989 Mr. Drinker: Yes.

Mr. Warrum: We desire for the defendants to enter objection to this particular offer for the reasons heretofore given.

The Court: Objection sustained.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Drinker: And in connection with the same offer, from the miners' convention proceedings, Exhibit 29o, page 158, the statement that G. H. Edmunds received a salary in 1914 from the International organization; and from the 1912 report of the miners' convention proceedings, Exhibit 29m, on page 121 of the treasurer's report, showing that he received a salary from the International organization in 1912; for the

purpose of connecting him with the International organization.

Mr. Warrum: The defendants separately object for the reasons above given, and for the additional reason that this evidence is immaterial.

The Court: Objection sustained.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Drinker: The Journal of August 15th, 1912, page 3, column 6, the article at the top of the page entitled, "Three Thousand More Go Out On Strike", for the purpose of showing the anticipation by the Journal of violent methods, the anticipation by the United Mine Workers Journal of violent methods in that connection and of clashes between the miners and the militia and the peace officers of the community, which were incompatible with any theory of self de-
990 fense and attributable to violent methods on the part of the miners.

Mr. Warrum: Same objection from all of the defendants.

The Court: Objection sustained.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Drinker: From the Journal of the 31st of October, 1912, page 1, article entitled "The Guard System in Disguise", on column 2, being a quotation from another organ, for the purpose of showing the intent on the part of the miners to use violent methods in connection with the conduct of the strike and the endorsement of that article by the publication thereof in the United Mine Workers Journal.

Mr. Warrum: The same objection by defendants.

The Court: Objection sustained.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Drinker: From the Journal of February 13th, 1913, page 1, entitled "Our Strike In West Virginia", column 1, to the article at the bottom of the page beginning, "Cisco" for the purpose of showing they endorsed the action of the strikers in West Virginia, being an account of a battle between miners and the guards of the operators and the militia, which shows on its face that the miners were the aggressors,

in order to show the advocacy by the United Mine Workers of such conduct in strikes.

Mr. Warrum: To which the defendants object for the same reasons given. The defendants would like to further object to the offer for the reason they believe the offer should only contain such matters as identified for the introduction
991 in to the record, and the purpose for which it is introduced, and not attempt to state the contents of the article or particularly characterize it.

The Court: That is true. It is here for all purposes, if offered at all.

Mr. Drinker: Will it be copied into the record?

The Court: I assume you are fixing it so that it will go into the record. When you make an offer it becomes a part of the record.

Mr. Drinker: From the Journal of the 13th of February, 1913, on page 8, the article entitled, "Forcing The Vote", by Frank Ledvinka and also from the report of the secretary of the United Mine Workers for the year 1912.

Mr. Warrum: The defendants now object to the offer from the Mine Workers Journal, for the reasons last stated.

The Court: Objection sustained.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Drinker: Being Exhibit 29m, page 123, to show that Mr. Ledvinka was paid a salary by the International organization in 1912.

And also from the proceedings for 1914, Volume 1, Exhibit no. 29o, page 158, to show that he was paid a salary in 1914.

Mr. Warrum: The defendants separately object to that for the reasons before given; and it is immaterial and irrelevant.

The Court: Objection sustained.

To which ruling of the court the plaintiffs, and each of
992 them, then and there duly excepted and still except.

Mr. Drinker: From the Journal of February 20th, 1913, page 4, the statement by Vice President Hayes, on the West Virginia situation, and the title in the last paragraph, for the purpose of showing the advocacy of violence.

Mr. Warrum: To which the defendants make the same objection.

The Court: Objection sustained.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Drinker: On page 7 of the same volume, of the same issue of the United Mine Workers Journal, from the bottom of column 2, from the words, "Rumored War", through the article and the signature of Paul J. Paulson, in column 4, for the purpose of showing the advocacy of violence in connection with strikes.

Mr. Warrum: To which the defendants separately make the same objection.

The Court: Objection sustained.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Drinker: From the proceedings of the miners' convention of 1914, Exhibit 29o, page 160, the treasurer's report, to show that Paul J. Paulson was a salaried officer of the United Mine Workers in that year.

Mr. Warrum: To which the defendants object as not competent unless it is offered in connection with his examination so that he may be examined as to the matter.

The Court: Objection sustained.

To which ruling of the court the plaintiffs, and each of
993 them, then and there duly excepted and still except.

Mr. Drinker: In connection with the same verification of Paulson, the article on page 191, paid to Mr. Paulson under date of October 22nd a certain amount of money for preventing strike breakers.

Mr. Warrum: To which the defendants severally make the same objection.

The Court: Objection sustained.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Drinker: And the statement in the same report page 192 of the payment by the United Mine Workers to Mr. Paulson on November 10th, 1913, of the sums of money therein stated, for the same purpose.

Mr. Warrum: We renew the same objection.

The Court: Objection sustained.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Mr. Drinker: Now, in connection with the Vancouver strike, which is offered for the same purpose and on the same theory, from the Journal of October 30th, 1913, page 7, column 2, the article entitled, "Thirty Miners Sentenced", for the purpose of showing that the United Mine Workers National organization was advertising to its membership the sentencing of its members for their activities,—the sentencing by a properly constituted court, for their activities in connection with rioting in labor disputes, in connection with the testimony of the president of the organization in the depositions taken, in which he testified that, to his knowledge,
994 there had never been any discipline of members or employes of the union, in connection with their activities in strikes, for the purpose of showing that by that non-action of the Union the advocacy of the United Mine Workers of the methods of those men in these strikes so stated, all for the purpose of showing the authorization of such methods subsequently by the district official, in connection with the present strike.

Mr. Warrum: The [defnednats] renew their objection as before given.

The Court: Objection sustained.

To which ruling and action of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Mr. Drinker: From the Journal of January 8, 1914, page 1, the article entitled "Our strike in British Columbia", by George Pettigrew", for the purpose of showing their convictions of the members of the United Mine Workers, in connection with their activities in that labor dispute, and the same non-action of the union as heretofore stated in the former offer, and for the same effect and the same purpose.

Mr. Warrum: I again offer on behalf of all the defendants separately the objections heretofore made to the introduction of extracts from the Miners Journal; and I again object to the manner and method of counsel in making these offers of what purports to be printed matter, which speaks for itself, and if introduced will bear whatever construction may be put upon it, and will be put in the record by the offer. I object to

these repeated offers which state the interpretation that counsel puts upon them, as not proper.

The Court: The objection is sustained; I have stated my ruling on that. Just identify it.

995 To which ruling and action of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Mr. Drinker: The Journal of March 26, 1914, page 1, the bottom of the last column, the item entitled "U. M. W. organizer", et cetera, to the bottom of the column, for the same purpose.

The Court: Does that refer to this field?

Mr. Drinker: No, to the Vancouver field.

Mr. Warrum: The defendants separately renew their objection.

The Court: Objection sustained.

To which ruling and action of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Mr. Drinker: Now, the following articles which are in connection with the Colorado strike, the articles beginning in July 1913, down to the 16th of July, 1914; from the Journal of September 11, 1913, column 1, near the bottom, of the column, beginning with "Colorado Miners" through column 2, and to the continuation of the same article on page — no, to the bottom of column 2.

Mr. Warrum: To which the defendants make the same objection.

The Court: Objection sustained.

To which ruling and action of the Court, the plaintiffs and each of them, at the time duly excepted and still except.

Mr. Drinker: The Journal of that issue, page 4, editorial, entitled "The strike is on", for the purpose of showing the authorization of the strike by the National organization, and the methods intended to be used. But none of these articles are for the purpose of establishing the facts stated
996 in them.

Mr. Warrum: To which the defendants renew their objection heretofore made.

The Court: Objection sustained.

To which ruling and action of the Court, plaintiffs, and each of them, at the time duly excepted and still except.

Mr. Drinker: From the Journal of October 2, 1913, page 4, the editorial entitled "The victory will be ours". For the same purpose as the last offer.

Mr. Warrum: To which the defendants separately renew their objections heretofore made, at this time.

The Court: Objection sustained.

To which ruling and action of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Mr. Drinker: From the Journal of November 6, 1913, page 1, in the middle of the page, in bold-faced type, "Latest news", for the same general purpose.

If your Honor please, I do not want to transgress against the ruling of your Honor, but I would like to say, in connection with these articles, the purpose for which they are offered.

The Court: They are here for all purposes they are proof of.

Mr. Drinker: I do not want it so construed. We do not want to offer them at this time to show conspiracy.

The Court: I think you have sufficient of this line of evidence. There is no necessity of encumbering your record with an immense amount of stuff which will be a burden to all of you, unless it will serve you some purpose. You are making a record of indefinite length on one single ques-
997 tion.

Mr. Drinker: I have been leaving out a good many. I suppose some might be eliminated, but there are seven or eight different kinds of articles that bear on the thing, and off-hand it is hard to be sure I have them all in.

The Court: Very well, proceed in your own way.

Mr. Warrum: I am not sure that the record shows an offer was made.

Mr. Drinker: I will make it again. The article in the Journal of November 6, 1913, is offered from page 1, entitled "Latest News" by Ed Wallace, for the purpose of showing the authorization by the officers of District 21, to use the methods therein described, and endorsed by the National Union.

Mr. Warrum: To which the defendants separately make the same objection.

The Court: Objection sustained.

To which ruling and action of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Mr. Drinker: From the Journal of November 6, 1913, page 2, the article entitled "For God's sake send us help" by Adolph Germer, at the bottom of column 3, through the article in column 4, for the same purpose last stated.

Mr. Warrum: To which the defendants separately make the same objection.

The Court: Objection sustained.

To which ruling and action of the Court, the plaintiffs, and each of them, duly excepted at the time and still except.

Mr. Drinker: From the fourth page of that same journal, the editorial entitled "Ludlow" for the same purpose.

998 Mr. Warrum: To which the defendants separately make the same objection.

The Court: Objection sustained.

To which ruling and action of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Mr. Drinker: From the Journal of November 13th, 1913, page 1, the article "Our strike in Colorado" for the same purpose.

Mr. Warrum: To which the defendants separately make the same objection.

The Court: Objection sustained.

To which ruling and action of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Mr. Drinker: From the Journal of December 4, 1913, page 4, the editorial entitled "Militarism Rampant".

Mr. Warrum: To which the defendants separately make the same objection.

The Court: Objection sustained.

To which ruling and action of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Mr. Drinker: From the Journal of January 8, 1914, page 4, the editorial entitled "Law and order", to show the advo-

cacy by the International officers of violence in connection with strikes, for the same purpose.

Mr. Warrum: To which the defendants separately make the same objection as before.

The Court: Objection sustained.

To which ruling and action of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Mr. Drinker: From the Journal of the 22nd of Janu-
999 ary, 1914, page 6, the article entitled "From Colorado; will fight to the death", under the signature of Thomas Scott.

Mr. Warrum: To which the defendants separately make the same objection as heretofore made.

The Court: Objection sustained.

To which ruling and action of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

1000 Mr. Drinker: From the Journal of April 2, 1914, page 3, article by Adolph Germer, entitled "Will the guilt lie there?", for the same purpose as the previous articles.

Mr. Warrum: To which the defendants make the same objection as before.

The Court: Objection sustained.

To which ruling and action of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Mr. Drinker: And the article of April 30, page 2, the article entitled,—at the bottom of column 1, to the article at the bottom of column 2—entitled "the fighting continues", for the same purpose.

Mr. Warrum: To which the defendants separately make the same objection as before.

The Court: Objection sustained.

To which ruling and action of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Mr. Drinker: From the same page of the same journal, the article beginning with the words "Strikers" towards the bottom of column 3 on page 2, through the article to the bottom of column 5, for the same purpose.

Mr. Warrum: To which the defendants separately make the same objection.

The Court: Objection sustained.

To which ruling and action of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Mr. Drinker: On page 2 of the same volume, column 6, the article entitled "Mothers", as far as the bottom of that page.

Mr. Warrum: To which the defendants make the same
1001 objection as before.

The Court: Objection sustained.

To which ruling and action of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Mr. Drinker: I am almost finished. In loking it over, perhaps we will be compelled to strike some from the record, but off-hand I do not want to take the responsibility of doing so.

The Court: Very well, proceed.

Mr. Drinker: From the same volume on page 8, article by Adolph Germer, entitled "Colorado or Mexico" for the same purpose.

Mr. Warrum: To which the defendants separately make the same objection as before.

The Court: Objection sustained.

To which ruling and action of the Court, the plaintiffs and each of them, at the time duly excepted and still except.

Mr. Drinker: From the 7th of May issue, page 3, column 1, the article entitled or beginning with the words "Chase refuses", through that article, and on column 2 at the bottom of the column beginning with the words "twelve die" through the three lines at the bottom of column three.

This article presents another point I have not referred to yet, and that is that it describes the battle between the miners and the officers in which it is stated that the strikers wore white handkerchiefs on their right arms, and that was exactly the same uniform, as shown in depositions heretofore taken, that was worn by the miners in this strike, and it connects them up by the uniform they wore.

1002 Mr. Warrum: To which offer the defendants separately renew the same objection.

The Court: Sustained.

To which ruling and action of the Court, the plaintiffs, and each of them, at the time, duly excepted and still except.

Mr. Drinker: The article from the issue of the 14th of May, 1914, of the Miners Journal, page 3, by Michael Halapy entitled "the spirit of revolt", through the article.

Mr. Warrum:

To which the defendants separately renew their objection heretofore made.

The Court: Objection sustained.

To which ruling and action of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Mr. Drinker: The 16th of July, 1914, the cartoon on the first page entitled "Watchful waiting", for the purpose of showing the advocacy of violence, as all these offers are. All of these offers are for the purpose and restricted to the purposes which I have stated.

Mr. Warrum: To which offer the defendants renew their objection heretofore made.

The Court: Objection sustained.

To which ruling and action of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Mr. Drinker: That is all we have in connection with our documentary proof. Your Honor intimated that you were going to bring up the question of the exclusion of those other papers. Might I suggest that we had expected not to get our witnesses here this morning?

The Court: Very well, I will then excuse the jury at
1003 this time.

(Whereupon, the jury was excused until 2:00 o'clock.)

The Court: The defendants now have the permission of the Court to renew their motion to strike from the record certain testimony consisting of the record of what has been heretofore referred to as "Joint conferences". I will hear you now. The reasons were all stated?

Mr. Warrum: Yes, your Honor.

The Court: Then you may present it now on the motion as then made. This is simply a renewal of your motion to strike.

Mr. Warrum: The motion that we made is not only based upon the ground, but another is an objection to the introduction of testimony.

The Court: Certainly.

Mr. Warrum: And predicated also, upon the admission in the statements by plaintiffs counsel this morning.

The Court: Certainly. And that objection of yours goes to the question that sufficient foundation has not been laid.

Mr. Warrum: I believe I have that in writing.

The Court: Just look and see. I assume that these records had been testified to be in the same condition as the other records testified to by Mr. Green, that the originals had been sent to the printer.

Mr. Warrum: Yes, that was with reference to the report to the annual, and later biennial conventions of the Mine Workers who assembled in conventions of their own, and kept their own minutes.

The Court: I want to impress upon you that yesterday,
1004 when the Court asked the question, I suggested that these records were all in the same condition, and that was my idea. Now, it develops this morning that the records with reference to the joint conferences are not in that condition. That is, that you have not the original record, and that there is no foundation laid for this evidence, unless the testimony that was referred to by counsel for plaintiffs this morning establishes such a foundation. In other words, the foundation laid with reference to the first set of exhibits was that the originals had been sent to the printer.

Mr. Warrum: He had charge of that, and so testified they were gone.

The Court: As the records of the organization?

Mr. Warrum: Yes, so far as that is concerned.

The Court: The Court assumed that that applied to the others, but we find now it does not.

Mr. Warrum: These joint conferences were not held under the direction of the same authority that controlled the miners conventions. The miners convention organized itself and its secretary keeps its minutes; and its Secretary Green has those minutes or can account for them. We account for their absence by the fact they had been sent to the printers.

With reference to the joint conferences reports, they are held at different places over the country, in Mobile, Philadelphia, Columbus, or wherever it may be. And those records, no one knows what became of them; whether or not the original minutes that have been transcribed from the notes are in existence, I do not know.

1005 Mr. Green, having undertaken to testify about it, he did state this was a copy of the transactions, but that was a statement he made as a witness, as I understand it.

The Court Here is the question the court wants enlightenment on. The modus operandi, by which these were printed and they then became the acknowledged records, to which those interested referred, and upon which they relied as records of that convention. I understand there is a rule applicable to such records, are these such records? It seems to me that is the question to be determined, is it not?

Mr. Warrum: We thought, when we first presented the motion, that we would not be required to produce them. I thought your Honor regarded that matter as fully settled.

The Court: I did at first. I am speaking now for myself but when one comes into court and asks that he be permitted to have assess to records and books that he thinks are of advantage to him the court will not apply a very strict rule in the determination whether or not they are of real material importance.

Mr. Warrum: The only point that we presented with reference to the joint conference reports, we felt we ought not to be required to produce them under the rule, because their production is supposed to be an authentification of them. That is true, where those documents are produced by the official custodian of them, — of documents they cannot get from other sources.

The Court: If you produce them under protest, you do not necessarily waive your rights.

1006 Mr. Warrum: It was for the purpose of saving that proposition that we raised that point. Our contention is that these printed volumes, having found their way into the files of the United Mine Workers, just as they no doubt found their way into the files of any mine operator who had the money to buy them, or who had the pride to preserve a record of the part he took in the proceedings. But we are not the custodian of them, but they belong equally to whoever may have them. It is true that we took

part in them and signed the joint wage scale, in which they terminated, when they did terminate in an agreement; the members of the National organization participated in them. And so in any legislative assembly. We might participate in a meeting of the American Federation of Labor and not have charge of the minutes of the American Federation of Labor, although after they were printed, they might be found in our files. And we protest against their production for that reason, for the reason they were printed documents. And the best that could be done by plaintiffs' attorneys was to put a witness on the stand and ask him if he attended those conventions and heard those speeches made, or to put on someone who took the report of them, which is another instance of memory only. Or to do as they were doing with Mr. Green, ask him about these and refresh his memory by asking him, "Did Mr. Maurer say so and so?" "Did Mr. Chapman say say so and so?" And in connection with that we do not examine him with reference to what either man said.

Referring to the statement of counsel for plaintiffs this morning, that they were introduced as memoranda, verified by Mr. Green only, and in connection with the taking of his deposition, they stand no higher than any memoran-
1007 dum offered to any witness for the purpose of refreshing his memory; and then deliberately offered in haec verba in the form in which the memorandum stands, to the jury as evidence. I confess I am not sure on the proposition at hand, but I never knew of any memorandum used in the examination of a witness for the purpose of drawing his attention to a speech or conversation being read to the jury, but it occurs to me it has to be read in connection with the taking of the testimony of the witness upon the precise thing they are asked about; that that does lay the foundation for the production of those things used in the examination of a witness as an original authenticated document.

Now, if I have not addressed myself to the point the court has in mind,—

The Court: Yes, you have.

Mr. Drinker: If the court please, we contend these are admissible properly on two, and probably three grounds. In the first place, these represent the minutes, or the records of conventions in which the United Mine Workers were engaged in their official capacity. It does not matter that other people were admitted to the conventions. They are a part of the official records made.

The Court: Are they? What makes them official?

Mr. Drinker: They were official meetings.

The Court: What makes them official records?

Mr. Drinker: Mr. Green produced them from the records of the United Mine Workers when asked for them.

The Court: It is not contended that the miners kept that record.

Mr. Drinker: He is the custodian of it so far as the
1008 Mine Workers are concerned.

The Court: So you would be, if you had them.

Mr. Drinker: It might be admissible against me if I was a party to the conference and was a party to the case.

The Court: Would it be admissible as to you? Assume that you were an operator and more then a party,—an operator in that conference and you were found with a copy of this book in your possession; would you say then that that book in your possession would cause you to produce it as evidence?

Mr Drinker: I do not think that is the same. It might be on another ground, but not on this particular ground, because this is an association which keeps records and has a custodian of its records.

The Court: This is an association which, so far as its rights are concerned, is no different than an individual, with reference to the same matter, and it is the same matter. This is a record of a joint meeting in which it was a participant. Now, it is bound by what was done there just as an individual is bound, and proof of what was done there is just as essential against it as against an individual, clearly.

Mr. Drinker: But when it produces it from its files, as one of its records, if it is admitted on the part of the defendant in this Green's testimony, then it it is a part of the defendants' record.

The Court: A part of the records kept by that corporation, in the regular transaction of its business, is, but the production under protest of a printed volume in its possession, with the keeping of which it had nothing to do,
1009 with the preservation of which it has no obligation or duty, is a different proposition. There can be no question upon that as a proposition of law. You might ask for a copy of the Koran, and they perhaps have a copy of it in their files, but that would not make them responsible for anything in it. On that proposition the court is very clear,

and it seemed to me that was the theory upon which it was introduced.

Mr. Drinker: Upon the second point connected with it, Mr. Green was asked whether he,—he was asked if he was present and he said he was present at all of those conferences and he also stated that was an exact verbatim report of the conferences, and he stated that as a responsible official of the United Mine Workers of America, and I take it that makes the report in those particular books, in the light of his statement, the originals, just the same as if they were originals. That is his admission on the part of the defendants in this case and he made the statement in his representative capacity as secretary of the organization. He made that admission that those particular printed words were said at that particular time, and he verifies it as an original. It is made just the same way as if he said, "All those people said all those things at that time and all those things are here in that book", and it is the same as if he testified in that case that Mr. So-and-so said so and so, and Mr. So-and-so said so and so. That is what his testimony amounts to.

The Court: Of course it would have been an easy matter to have traced the keeping of those other records that were destroyed.

1010 Mr. Drinker: What difference would it make if I had shown the original was destroyed? That would not make it any better, because I would have to prove the original was correct.

The Court: You do not have to prove the original was correct.

Mr. Drinker: I proved the copy was correct by asking Mr. Green.

The Court (interrupting): No, you proved what was done at that meeting by using this book as an exhibit to show to him and refresh his recollection and asked him, "Is this the thing that was done?" You do not know whether that was the original record or not. It was not his duty to keep it. He does not testify that he ever saw it. He just said it was the records published.

Mr. Drinker: No, he produced these books from his files, in answer to the call for them, and he said he was present at the conventions and that the books were verbatim reports of what happened.

The Court: Yes, that they contained a verbatim report of what happened, but that does not make them admissible.

Mr. Warrum: Testimony that it is a correct copy does not make it an original.

Mr. Drinker: In addition to that, I offered those particular books in evidence at the close of the deposition. I offered the whole business in evidence on page 345 of the depositions.

The Court: Call my attention to that offer.

Mr. Drinker: I did not read that yesterday, but I would like to put this in now as a part of this: "Mr.
1011 Drinker; now, I offer in evidence the eight volumes"

The Court (interrupting): It is not a part of the record now.

Mr. Drinker: No, it is argument. "Mr. Drinker; now, I offer in evidence the eight volumes produced by the witness Green marked Exhibit No. 30a, Exhibit No. 30b, Exhibit No. 30c, Exhibit No. 30d, Exhibit 30e, Exhibit No. 30f, Exhibit No. 30g, and Exhibit No. 30h."

First I called Mr. Green back. The depositions had not been closed and Mr. Green came back into the room and this is what happened. I wanted to ask him some more questions and also we were going to offer all these books in evidence, the Journals and the convention proceedings and the joint conference proceedings. And I called Mr. Green back and I said, "Mr. Green, you have been sworn?" And he answered, "I will have to take the position now, Mr. Drinker, that I have been on here for two days, and have very gladly and willingly submitted to an examination in full on your part, and cross-examination on the part of counsel for the defendants, and I have submitted to you all the records and books that you asked for during that time. And then, at the conclusion of that two days examination I asked you now if you were through with me, and you sad 'Yes', and having been discharged I feel that I will be within my rights in refusing to go on the stand further." And then his testimony follows: "Q. Well but you are on the stand? A. Well, in refusing to submit myself further examination. Q. Mr. Green, I only want to ask two or three questions on matters which have been brought out in the course of Mr. White's examination."

1012 Then I asked him to produce the records of the International organization and then he got up and ran

out, not ran out, but went out of the room, and I could not get him back, and I offered the books in evidence. I objected to the colloquy with Mr. Warrum and I said, "I am going to ask this one question, and he can refuse to answer it or not, as he chooses." And then Mr. Green said, "I do not regard myself",—and Mr. Drinker said, "Note, Mr. Notary, that the witness left the room in the middle of that question. Mr. Warrum: After making his statement."

Then I stated that I was going to adjourn the deposition for the purpose of getting an order of court to compel the production of certain papers they had not produced, and then I offered these items in evidence. Counsel refused my right to adjourn the depositions, and then after that I offered in evidence all of the United Mine Workers Journals and all these convention reports and all of the joint convention proceedings that had been identified by Mr. Green and I asked the notary to attach them to the depositions, and they would not let me do it, and I came down and got this order requiring them to produce them at the trial.

Mr. McDonough: It occurs to me, your Honor, here is a convention participated in by the operators on the one side and the miners on the other for the purpose of making a scale agreement, and all that was said was said in the meeting when all parties were present. Now, as I understand Mr. Green's evidence, he says, "This is a correct copy of what occurred"; that is, it is a fact, their words. The words are facts.

1013 The Court: That is the only possible theory, gentlemen, upon which this can be received. I have not heard before that they were offered there and made a part of his testimony. Of course if he said, "I was there and know what transpired and I do not have to have a record of it. I know by seeing this report it is true", that makes it his testimony just as if he said Smith or Jones got up on the floor and said so and so. That is the only theory upon which it can be used, not as a record, but as testimony of what transpired there. The mere fact that he produced it as an officer of the Mine Workers would not make it an admission upon his part that it was the authenticated reports of the joint sessions.

Mr. Drinker: We could have cross-examined on those volumes.

The Court: When you produced them the introduction of them preserved the right.

Mr. Warrum: We always have claimed, at the time of the taking of the depositions, and on the hearing of the motions before Judge Youmans, and tried to preserve the point before your Honor on the motion to vacate, that these documents were not identified at all when the depositions were taken. They were brought in and laid on the table and Mr. Drinker asked that they be marked for identification. And that is the reason I have in making the objection I did, —not with reference to the other matters but to the joint conference reports. Mr. Drinker told the notary to mark them and he did, and all that it was necessary for him to have done was to hand them to the witness and say, "I hand you a document which has been marked for identifica-
1014 tion purposes Exhibit so and so and ask you to state what that is?" Instead of that, he leaves them standing there marked by the notary, who did so because he was subservient and willing to do anything asked of him.

Now, we object for this reason and for all of the reasons stated. If these parts are evidence then they are all evidence. Our position was at the time and has been ever since that they were never even identified except in this matter of production.

The Court: I should say that the questioning of the witness with reference to an exhibit which is marked does identify it.

Mr. Drinker: He identified it; let me read it.

The Court: I remember it. I guess, gentlemen, we have got to come to it. I had no idea it was possible to consider those reports of the joint conferences,—that it was possible to consider them as testimony of the witness. I did not apprehend they had even been offered. I was not made aware of it before, and when the foundation fell out from under it this morning that I rested the admission on yesterday, I thought it was in the air.

Mr. Drinker: I did not read that because I thought it was all right the other way.

The Court: Yes, you were under that impression, and that is the foundation upon which I rested my ruling, and when I found out differently this morning I did not know where I was at.

I think, gentlemen, I will deny the motion under the conditions. I am glad it has been straightened out because I was in the air all morning. I will deny the motion
1015 to strike them out.

Mr. Warrum: The defendants severally desire to except to the ruling of the court for the reasons stated.

The Court: The exception is allowed.

Mr. Drinker: May I ask leave to read that part of the deposition of Mr. Green, after lunch?

The Court: Yes.

At this point an adjournment was taken for the noon hour.

1016 October 26, 1917, 2:00 o'clock p. m.

Pursuant to adjournment court reconvened, the parties appearing as before, and the following proceedings were had.

The Court: You have permission of the Court, if you desire, to offer the portions of the deposition that you had put in yesterday.

Mr. Drinker: I offer, in connection with the deposition of William Green and John P. White, under the notice for the deposition at Indianapolis, Indiana, said deposition having been taken on August 20 and 21st, 1917, I offer the testimony of Mr. Green, and offer the exhibits at the close of those proceedings, as follows:

"WILLIAM GREEN, being recalled, testified as follows:

Questions by Henry S. Drinker, Jr.:

Q. Mr. Green, you have been sworn?
A. I will have to take the position now, Mr. Drinker, that I have been on here for two days, and have very gladly and willingly submitted to an examination in full on your part, and cross-examination on the part of counsel for the defendants; and I have submitted to you all the records and books that you asked for during that time; and then, at the conclusion of that two days examination I asked you now if you were through with me, and you said "yes"; and having been discharged I feel that I will be within my rights in refusing to go on the stand further.
Q. But you are on the stand?
A. Well, in refusing to subject myself to further examination.

Q. Mr. Green, I only want to ask you two or three questions on matters which have been brought out in the
1017 course of Mr. White's examination.

The Witness: I want to say Mr. Warrum, my work has got behind, I have neglected my work, very important work, and I really feel that it is an imposition to impose on me any further.

Q. I want to ask you merely to produce the records of the Executive Board of the International organization of the United Mine Workers of America.

Mr. Green: I say I will have to refuse to submit.

Mr. Drinker: I am going to ask this one question, and he can refuse to answer it, or not, as he chooses—

Mr. Green: I do not regard myself—

Mr. Drinker: Note, Mr. Notary, that the witness left the room in the middle of that question.

Mr. Warrum: After making his statement.

• • • • • • • •

Mr. Drinker: Now I offer in evidence the eight volumes produced by the witness Green marked Exhibit No. 30 A, Exhibit No. 30 B, Exhibit No. 30 C, Exhibit No. 30 D, Exhibit No. 30 E, Exhibit No. 30 F, Exhibit No. 30 G, and Exhibit No. 30 H."

Mr. Drinker: That is all.

The Court: Now, the record may show renewal of the motions by defendants, and that the motions are denied, with an exception to the defendants. That works the record up to where we left when we adjourned.

Mr. Drinker: Mr. Bache.

Mr. Warrum: If the Court please, if they are through with the introduction of their documentary evidence,
1018 we wish to exercise the right that the Court said we could exercise at this time, to offer parts as cross-examination.

The Court: Before you start in with your deposition, I suppose it is just as well to dispose of it now as any time.

Mr. Drinker: We have one book that is one of the joint conferences that has not been produced yet.

Mr. Warrum: We are willing to say that this matter is not closed, and whenever it is, that we may go ahead with documents.

Mr. Drinker: We may not put anything in out of those books at all. There won't be but one or two passages from the book anyway.

The Court: The Court is not disposed to control you gentlemen—

Mr. Warrum: Whenever counsel for the plaintiffs will announce that they are through, according to the election allowed us by the Court, we will proceed with the cross-examination.

Mr. Drinker: We are entirely through with all of the examination of this kind, except the books that were mentioned. Whether or not any other branches of the case may come up in which we will use these other extracts from the same books, we do not know. There never will come a time when we will say that we are through.

The Court: I think, under the suggestion of the Court, that the defendants are entitled, under their cross-examination, to go into these matters.

Mr. Warrum: It may take a second or two to locate these books.

1019 The Court: If, for any other reason, you would like to examine them further, and mark what you want, the Court will not consider this matter closed, and you can take it up at any other time.

Mr. Warrum: We would prefer the time, we sat up until 2:00 o'clock last night.

The Court: Let the record show that counsel for plaintiffs close with the presentation, that is the examination as to the books and records that were produced, and it is ordered by the Court that the defendants may introduce so much of said records as is competent, and upon the cross-examination, at any time before the trial of this case is ended.

Mr. Warrum: As cross-examination to the plaintiffs introduction?

The Court: As cross-examination, and that they shall not be foreclosed from doing so by reason of its being passed at this time. That makes it clear. I assume now that

you gentlemen can go through them at your leisure and get just what you want.

Mr. Warrum: We can use tomorrow afternoon and Sunday.

The Court: Proceed, Mr. Drinker.

Mr. Drinker: Mr. Bache.

FRANKLIN BACHE, called as a witness on behalf of the plaintiffs, being first duly sworn, testified as follows:

Direct Examination

By Mr. Drinker:

Q. What is your full name? A. Franklin Bache.

1020 Q. Where do you live?

A. In Ft. Smith and Philadephia.

Q. Ft. Smith and Philadelphia? A. Yes, sir.

Q. What is your business? A. Mining engineer.

Q. A graduate of what institution?

A. Of the University of Pennsylvania.

Q. In what capacity, in what degree?

A. Mining engineer.

The Court: Can the juror farthest away hear? Speak a little louder, please.

A. (Repeating.) Mining engineer.

Q. What year did you graduate as mining engineer?

A. 1890.

Q. And then did you begin then to practice your profession as a mining engineer? A. Yes, sir.

Q. State briefly your activities in connection with the practice of your profession, a brief outline of your activities from your graduation up until 1898.

Mr. Warrum: The defendants separately object to this question, and the evidence sought to be introduced thereby, for the reason that it is immaterial to the issues in this case as to his activities, and what his activities were in the early part of his career.

The Court: I presume this is simply a foundation showing his qualifications to testify.

Mr. Drinker: We will prove it all before we get through, and we thought we had just as well start in with it.

The Court: The objection will be overruled.

To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

Q. State your experience as a mining engineer from
1021 your graduation until 1898, where did you first go in pursuit of your profession?

A. I worked three years with the United States Coast Survey, three summers with the United States Coast and Geographic Survey. I then worked in making examinations of iron ore deposits in southwest Virginia, Tennessee and North Carolina for about five years. I then -went as assistant engineer to Cuba, in connection with an iron mine that was being opened up.

Q. What year was that? A. 1890 and '91.

Q. Where did you go from there?

A. Back to southwest Virginia, in the examination of iron mines and coal properties and the building of coke ovens.

Q. And from there where did you go?

A. From there I went to Philadelphia, and for a few months, or a year, I made reports on iron ore and coal properties in the different parts of the United States and Canada.

Q. And from there?

A. Then I went as mining engineer with the Berwind-White Coal Mining Company in Pennsylvania.

Q. How long were you there?

A. I was there for about eight months.

Q. And how far does that bring you down?

A. That brings me down to about the time I came out here.

Q. When was that? A. In 1898.

Q. And where did you meet Mr. Denman?

A. He was engineer also with the Berwind-White Coal Mining Company in Pennsylvania.

Q. And in connection with what occupation and operation did you come west?

A. We took a contract—entered into a contract with
1022 the Choctaw, Oklahoma & Gulf Railroad.

Q. You and Mr. Denman?

A. Mr. Denman and I entered into the contract, I think individually, or organized the Kali-Inla Coal Company, and entered into on behalf of the Kali-Inla Coal Company, the Kali-Inla Coal Company conducted the operation.

Q. And what did you do in connection with that operation?

A. I managed the production of the mine that we took from the railroad.

Q. Where was that mine situated?

A. There were two mines. They were both located at Alderson, Oklahoma, it was then Indian Territory.

Q. And how large mines were those, approximately?

A. They had a production of seven or eight hundred tons a day, and were located on the Choctaw Railroad, as it was known, now the Rock Island.

Q. And were you and Mr. Denman then working for yourselves or working for somebody else?

A. We were working for ourselves, we took the contract to mine the coal, and also agreed to sell the coal after it was mined, to the railroad at a certain price per ton.

Q. Had you worked for yourself at any of the other mines, before that, or for anyone?

A. Before that time, our work had been—my work had been altogether for other people.

Q. Then how many years did you operate that property, those particular mines?

A. Those particular mines we operated for about eighteen months, until about—may I correct that?

Q. Certainly.

1023 A. We operated those mines under that contract for about eighteen months, but continued to operate those particular mines until 1902 or 1903.

Q. Then what other operations in connection with the coal business, or mining engineering, did you enter into in this region, subsequent to the one that you described when you started in 1898?

A. About 1900 we developed a mine east of Alderson, now known as No. 6 Mine. It was a shaft about 500 feet deep, with about ten slopes connected with it, and we also entered into an additional contract with the Choctaw, Oklahoma and Gulf Railroad to operate all of the mines of that road, which included the mines already spoken of at Alderson, and also the mines at Hartshorne, Indian Territory.

Q. And how large were those mines?

A. The production of all those mines, Alderson and Hartshorne together, was between four hundred and five hundred thousand tons a year.

Q. And approximately how many men were employed in those mines, just in round figures?

A. Two thousand.

Q. Now did you operate—these mines you have spoken of, were they acquired by you by purchase or by lease?

A. The mines that I spoke of opened two miles east of Alderson was at first owned by us—we put the money into it and sank the shaft, and owned the mine, and later we sold that to the Choctaw, Oklahoma & Gulf Railroad, and then the railroad leased it back to us, or contracted it back to us along with all of their other mines.

Q. When was that?

1024 A. That was about 1900, the period of 1900 or 1902.

Q. Did you acquire by lease or purchase any other properties in Indian Territory prior to 1902, other than the ones that you have described?

A. Yes, sir, we leased from the United States, from the Choctaw and Chickasha Indian Nations, with the approval of the Secretary of the Interior, a coal lease of 960 acres, about three miles east of the town of Red Oak, Indian Territory, on the Choctaw, Oklahoma & Gulf Railroad, and put it in operation, on a small scale. We— not we, I also was appointed receiver of the Mexican Gulf Coal & Transportation Company, that had a mine at Howe, and coke ovens, there were a hundred coke ovens at Howe, and fifty at Alderson, and I operated that as receiver for a period of about a year.

Q. What happened to that operation?

A. The operations were successful, and we turned it back after paying off most of the debts of the company to the stockholders.

Q. And then were you connected with any other coal operations in the Indian Territory, or elsewhere, prior to 1902, other than those you have mentioned?

A. I don't recall any others in the Indian Territory.

Q. Where did you first—when did you first become interested in any properties in Arkansas?

A. I think it was about—

Q. (Interrupting.) It doesn't matter about the exact date.

A. I think it was about 1901 or 1902, we purchased about 280 acres of land near Hartford.

Q. Near Hartford, Arkansas?

A. Hartford, Arkansas; the land was purchased from, I don't recall. I think it was from Judge Huff, and the people that purchased it was Mr. Denman and Mr.

1025 Bryan who is now dead, but at that time was mine inspector for Indian Territory, and myself.

Q. And what did you do with that property, operate it?

A. No, not directly at that time. It was located about two miles from the Rock Island Railroad, and we had had no railroad track to it at that time, but later, when the Mid-

land Valley Railroad was built, it was built to the property, and about that time, or perhaps before the Midland Valley was built, we made a lease to what was known as the Hoffman Coal Company. Possibly the lease was made to Mr. Hoffman first, and he transferred it to the Hartford Coal Company, but that is the substance of it, on part of it, but not all of it, and about that same time I took an option for myself, and a gentleman named Bond in Philadelphia, and I think a gentleman named Galvin, who at that time was president of the Choctaw road, on 3000 acres about, of coal land in Arkansas, west of the Hartford about two miles, and we spent several thousand dollars in prospecting it with diamond drills for coal.

Q. Did you state in whose name that property was purchased? A. The Hartford Coal Company.

Q. Yes. A. Yes, sir.

Q. And then you and this mine inspector and Mr. Denman were the stockholders of the Hartford Coal Company?

A. Yes, sir.

Q. Now, what [othe] coal lands did you acquire in Arkansas subsequent to that date

A. We acquired about 400 acres located at what was then the station of Quainlin, on the Frisco Railroad.

Q. And what did you do with that?

A. The Denman Coal Company purchased that property.

1026 Q. Who organized the Denman Coal Company?

A. Mr. Denman and myself.

Q. For what puropse?

A. To take over this particular property and operate it.

Q. What was the reason for taking it over in connection with that company, instead of the company, instead of the company that you previously had formed?

A. Because Mr. Bryan was not interested in the purchase of the property.

Q. Of the new property? A. Yes, sir.

Q. Who were interested in the purchase of the new property?

A. Mr. Denman and myself, I think were the only ones.

Q. So that you organized a new company, you and Mr. Denman, and held all of the stock of the Denman Coal Company? A. Yes, sir.

Q. And what other properties, if any, did you acquire in Arkansas subsequent to that, and what were they?

A. We acquired about 200 acres of land adjoining the Hartford Coal Company land, in which Mr. Bryan was in-

terested, and turned it over to the Mammoth Vein Coal Company, which was organized for that purpose.

Q. Why did you organize a new company at that time?

A. Because we wanted to get money to develop a mine on the property, and we made an agreement with two gentlemen in Ft. Smith, Mr. Speer and Mr. Eckols, by which they agreed to loan us, I think, $20,000.00 on our notes, and possibly on a mortgage on the property.

Mr. Grant: We object to that, if it was a lease it is in writing.

The Court: This is just a general foundation, leading up to the statement that he is the owner. It is not a question of title. The title is not in issue, if it was in issue,—I don't understand that there is any issue made here as to the title of this property?

1027

Mr. Warrum: It is a question of how they acquired possession.

The Court: No, just a history leading up to it.

A. (Continuing.) And in consideration of the loan they were to receive, I think, 25 per cent interest from the company, as a bonus.

Q. And they received stock in this Mammoth Vein Coal Company? A. Yes, sir.

Q. And how large a tract was it that you acquired, and turned over to the Mammoth Vein Coal Company?

A. 200 acres.

Q. And did you purchase any other lands at that time for yourself, or other parties, in that vicinity?

A. No, we didn't purchase any other land that I can [recalll], at the moment.

Q. Did you lease any other lands?

A. Yes, sir, we did. We leased the property known as the Prairie Creek. It was owned by the Cherokee Construction Company, and we entered into a lease with that company for that property. We also leased from—strike that out will you—we purchased from Judge Spralding, I think, a lease which he had from Mr. Boone, on a piece of land known as the Coronado Mine later, and sub-let it to the Coronado Coal Company.

Q. Who organized the Coronado Coal Company?

A. Mr. Denman and myself, I think. We needed money to develop that property, and we got Mr. Jackson of Philadelphia to loan us $30,000.00 on a mortgage, and gave him 30 per cent of the interest in the property as a bonus.

1028

Q. You mean in the stock of the company? A. Yes, sir.
Q. How large a tract was the Coronado tract?
A. Two or three or four hundred acres, say three hundred.
Q. And how large was the Prairie Creek tract?
A. Six or seven hundred.
Q. And did you state how large, how many acres approximately, was in the tract that you leased from the Cherokee Construction Company?
A. That was the Prairie Creek Company.
Q. Then, did you organize any other companies in connection with your operations in Arkansas, or acquire any other property?
A. Yes, sir. The Mammoth Vein Coal Company leased from the Cherokee Construction Company a hundred and sixty acres of land which was equipped with a shaft, known later as Mine No. 6. We also leased from the Cherokee Construction Company, I think it was 360 acres of land, lying to the dip of, and adjoining the property owned by us, or owned by the Mammoth Vein Coal Company.

The Court: By what company?

A. The Mammoth Vein Coal Company, and this lease was taken in the name of the Mammoth Vein Coal Mining Company.

By Mr. Drinker:
Q. Who organized that company?
A. Mr. Denman and myself.
Q. You were the stockholders in it? A. Yes, sir.
Q. Anybody else have any interest in that property by mortgage or stock in the company?
A. My impression is, my recollection is that the stock in it was owned by the Mammoth Vein Coal Company.
1029 Q. Now then, how far down does that bring you, when you had all of these companies organized?
A. To about 1907.
Q. Then what did you do with reference to the operation of these different properties? Now just, in connection for the present with the development of the coal, and the building of buildings, and getting them into operation, the physical development, and taking them one at a time, different mines. I don't mean to describe each tipple that you built, or each machine that you put in, but just so that we can get a general idea of how they were developed and of what size operation they were, in the first of 1914.
A. The Mammoth Vein Coal Company, Mine No. 1 was a slope mine.

Q. What is a slope mine?

A. I would say a slope mine, in contra distinction to a shaft mine. The coal seam outcrop on the property.

Q. Now, you can explain what an outcrop is, so we will understand how these mines are. What is an outcrop, and how does the coal seam lie on the ground?

A. The coal seam lies in the sand stone and slate and shale, the strata, like one leaf would lie on the other leaves in a book, and in that particular field, it would be like a book tilted up not on edge, but about what was ten degrees, or fifteen degrees pitch, and at the point where this particular leaf or coal seam comes to the surface, that is the outcrop.

Q. Now, that runs along in the ground for a long distance, does it?

A. It runs along the ground for a long distance, like a line, and that is called the outcrop of the coal vein.

Q. Now, what is the difference between a slope mine
1030 and a shaft mine?

A. A slope mine, you commence at a point where the coal vein intercepts the surface, comes to the surface, and drive your mine working direct from the surface down along the coal measure, down along the coal vein itself, on the coal, down hill, and develop your mine in that way. A shaft mine, you go away from the outcrop, to where the coal vein is below the surface, and sink a shaft vertically, and until it intercepts the coal vein. You sink the shaft down now in the coal vein, down to the rock and sand and gravel, into the coal vein.

Now this Mammoth Vein mine we owned is a slope mine, from the point where the coal comes to the surface of the land.

Q. And what mining facilities, as a general proposition, I don't want to go into particulars now, did you put into that property and into what sized operation did you develop?

A. Over a period of years we put, we drove the slope down a couple of thousand feet, nearly three thousand feet. We erected a tipple, erected a shaking screen, we put in boilers for making steam, hoisting engines, to hoist the coal in the mine, or workings to the surface, and put in the tipples, and air compressor, to make compressed air to run the pumps, and other machinery in the ground, where it was advantageous to run steam lines to. We put in railroad tracks to take railroad cars to the tipple, and equipped them with track scales, to weigh the railroad cars. We put in two ventilating fans to provide ventilation.

1031 Q. Do not describe all of the different machines. You had one slope developed and a tipple in connection therewith? A. Yes.

Q. And by the 1st of January, 1914, what was the capacity in production in tons per day or tons per year?

A. About 600 or 700 tons a day was the capacity, or was the production.

Q. What was the capacity?

A. The capacity, I suppose, was double that.

Q. What is the difference in the nomenclature between capacity and production? What do you mean by saying the capacity was double the production?

A. I mean that if it was operated to its full physical capacity, the production would be double what it was. In other words, the production is what it did do, and the capacity is what it is capable of doing.

Q. If you had enough men and cars? A. Yes.

Q. This is Mammoth Vein what?

A. No. 1. I might add to that, that sometime about 1912 we entered into an arrangement with the Rock Island Railroad and they built a mile and one-half of spur track over toward this mine and we built about 1,000 feet of track and erected a second tipple. We had two tipples at that mine, so as to be able to ship over either the Midland Valley or the Rock Island.

Q. Now, take your next mine?

A. That was the Prairie Creek Mine No. 4. That shaft was already sunk and partially equipped when we leased the property. We made considerable improvements at the mine, increased its capacity and greatly increased the underground development of the mine. We taken several years to do that.

1032 Q. When you got your Prairie Creek mine developed, say the first of 1914, what was the capacity? I mean what was the production in tons per day of that mine and what was its capacity, and approximately how many men were employed there?

A. Eight hundred tons was its maximum production. Its capacity I would say was about 1500 tons.

Q. Did you state how many men were employed at Mammoth Vein No. 1? A. About 100.

Q. About 100 at Mammoth Vein,—how many at Prairie Creek No. 4?

A. About 100 or more, between 100 and 200 men.

Q. At Prairie Creek No. 4? A. Yes, sir.

Q. Dependent on conditions? A. Yes.

Q. Now, what is the next mine?

A. The next mine was the Coronado mine. That was a leased property, but the mine had been opened when we took it and we sunk a shaft to the coal. We also drove a slope from

the outcropping to the shaft. And after we drove a shaft to the coal we drove a vein to the outcropping.

Q. And when you got through your development of Coronado approximately in a general way what did you have?

A. We had a very substantial tipple, and in addition to that we put up a coal washer.

Q. What is a coal washer?

A. It is a pan designed to take the slack coal or small sized coal and put it through a washing device for the purpose of removing the small pieces of slate and sulphur and foreign substances which make it less valuable.

Q. What was the production of Coronado and the capacity, and how many men were employed there on an average?

A. About 1500 tons and that was both its capacity 1033 and its production.

Q. Approximately how many men were employed there? A. Between 100 and 200 men.

Q. Sometimes 100 and sometimes 200?

A. Yes, I cannot give you the exact figures on that. They varied very much from week to week and from month to month, and from day to day, almost.

Q. What was the next mine you were operating in 1914, say in this vicinity? A. There was Mammoth Vein No. 6.

Q. Describe briefly, that is, in a general way, as you have done with the others, what you did there in the way of development for the year, and what you did in 1914 there?

A. We leased the property and the mine was already on it. It was a shaft mine equipped with what we call a shaft tipple and the production and its caapcity were about the same, about 250 tons a day.

Q. How many men were employed there?

A. Sixty or seventy men.

Q. Now, was there another mine?

A. We owned a mine located on the land of the Hartford Coal Company, which was known as the Dallas mine. It was a slope mine and it was a slope tipple with track connection with the Midland Valley Railroad.

Q. Did you make those developments?

A. No, we did not make all of the developments. We leased that property to someone else. I do not recall whom. We leased it at different times to several people. The original development was made by what was known as the Dallas Coal Company, and I believe they failed and we took the mine in, we took the development when the lease was cancelled and we

operated it ourselves at different times and increased the development of the mine.

1034 Q. How much of a property was that?

A. I think its production was about 300 tons a day and also its capacity.

Q. And how many men, approximately?

A. Eighty, say.

Q. Now, was that a period early in 1914, that property?

A. No.

Q. Did you describe Prairie Creek No. 3? A. No.

Q. Describe that operation, and its development and what you had in 1914?

A. Prairie Creek No. 3 was originally a slope mine.

Q. Did you start it?

A. No, it was like No. 4, it was a slope mine when we took hold of it, when we took the lease. It was immediately adjoining No. 4 mine and about 3,000 feet away from it, and we decided it would enhance the economy of operation if we made a connection underground between these two mines so that all of the coal from No. 3 mine could be taken underground and hoisted up through No. 4 shaft. And No. 3 tipple, so far as shipping coal over it, was abandoned several years before 1914. The hoisting engine and boilers and equipment for hoisting the coal in No. 3 slope, so as to run it underground over to No. 4, was maintained as a necessary part of No. 4 mine. So No. 3 mine after we had driven this underground connection became a part of No. 4.

Q. And it was not operated as a separate mine? A. No.

Q. Then, in describing the production, capacity and working of Prairie Creek No. 4, did you include No. 3?

A. Yes, sir.

Q. Now, is there a mine known as the Hoffman mine?

1035 A. Yes.

Q. Did you describe that? A. No.

Q. Describe that.

A. The Hoffman mine was a mine I spoke of in connection with the purchase of land by Mr. Denman, Mr. Bryan and myself and we leased it to the Hoffman Coal Company and they operated the mine for a number of years, and they became insolvent and it went into the hands of a trustee and it was purchased, I believe, by us. No, no, it was not. It was leased by the trustee to the Central Coal & Coke Company and it was being operated by the Central Coal & Coke Company who paid us royalities, that is, paid the Hoffman Coal Company royalties in 1914. That was a slope mine and the equipment was the ordinary slope tipple with such appliances. The

equipment was owned by the Central Coal & Coke Company, or the lessee.

Q. Now, you testified as to the average production of your mines in 1914. About what was a ton of coal worth at the mine, so that we may get the value of the daily production of all of the mines in connection with the size of the operation, just approximately? If you do not remember the exact price of coal, never mind. I will withdraw the question.

Now, state in a brief, general way any considerations with reference to the relative location of these different properties in connection with their operation, which you think did become valuable, or of value?

A. Commencing at the southwestern end of our property, which was the southwestern end of the Hartford Coal Company property, our properties extended along the outcropping of the coal seam, for a distance of about two miles and one-half in a southeasterly direction, and, taken together, formed a compact body of coal land. The land we
1036 owned, the Hartford Coal Company and the Mammoth Vein Coal Company, extended for about a mile and one-half along the outcropping and to a considerable extent commanded the coal lying to the dip.

Q. Why was that?

A. Because the coal lying to the dip could only be obtained through the slopes on the properties we owned, or by the expense of sinking shafts through the overlying sandstones, shales and rock, which would have been an expensive operation.

Q. And how many acres was there of the coal back from the dip, which was thus commanded by your ownership of the outcropping, that is coal that you did not own yourself?

A. One thousand acres or more.

Q. Now, this coal that you have described was all in one vein, or one page, as you described, it, one vein?

A. Yes, we only operated one vein, and there was only one vein in that field of commercial value.

Q. How thick was that vein, if it was all the same, so state; and if it varied in the different mines, state the variation in the different mines? A. In the,—

Q. (interrupting). Take first the Mammoth Vein No. 1?

A. In Mammoth Vein No. 1 the coal was about seven or eight feet thick.

Q. And in Prairie Creek No. 4, how thick was it?

A. About seven or eight feet thick.

Q. And in the Coronado, how thick?

A. About six feet thick.

Q. And in the Coronado, how thick?
A. About six feet thick.
Q. And in Mammoth Vein No. 6 how thick?
A. About three feet thick.
Q. And in the Dallas mine A. About four feet thick.
1037 Q. And in Prairie Creek No. 3?
A. Seven or eight feet thick.
Q. And in the Hoffman?
A. Seven or eight feet thick.
Q. Now, is seven or eight feet thick a large vein for this region or is it a small vein? What do the coal veins average in this region?
A. Those seven or eight feet thick are the largest and thickest veins in the field.
Q. What is the average vein in the vicinity of mines within a radius of 20 miles of those mines, in a general way? I do not want you to go into each one.
A. To the south and west about four feet, to the southeast about six feet, to the north about three feet, and getting farther away, away down at Deming, and Jenny Lind, the coal is about four feet thick.
Q. So that those mines with those size of veins were exceptionally good for mining purposes, for the vicinity?
A. Yes.
Q. Now, in connection with the production of coal, did you do more than merely mine the coal? Did you ship it and sell it? A. Yes.
Q. Your companies, I mean? A. Yes.
Q. Where was your market?
A. In Arkansas, in Northwestern Louisiana, in Texas. You mean in 1914?
Q. Yes.
A. In Oklahoma, in Missouri, Nebraska, Iowa, some in Minnesota, some in South Dakota. The largest part of the production I would say, without having the figures in order to verify it, went to Texas and Oklahoma.
Q. Approximately how much of your coal that you mined at the time,—say in the spring of 1914, March, 1914,—
1038 approximately what proportion of your tonnage of your regular shipments around that time went out of Arkansas, after you put it on the cars?
A. About 75 per cent went out of the state.
Q. Now, who loaded the coal on the cars at the mines, your employes or somebody else? A. Our employes.
Q. How was it loaded on the coal cars?

A. It was hoisted in the mine cars to the top of the tipple and there it was dumped out of the mine cars onto screens, generally. Sometimes we shipped it without screening it.

Q. Tell us what a screen is, the jury want to understand the method. Describe a tipple and screening in a general way so that we can picture the operation of loading the coal into the coal cars?

A. All right. Most of the mines were equipped with what were called shaking screens. The reason for screening the coal was that some of our trade wanted the lump coal very free from the slack in small sizes. And others of our trade wanted slack coal or small sizes, because they got it cheaper, I suppose. And still others of the trade were willing to take it as mine run, which is just as it comes out of the mine with the large and the small sizes mixed together. In order to satisfy the customers that wanted the large or the small pieces separate, we ran it over screens. And to screen it when we got it to the top of the tipple, we dumped it from the mine cars onto pieces of sheet iron six or eight feet wide and twenty or thirty feet long, and which were at a slight inclination. They were shaking screens, that shook back and forth rather slowly and they had perforations or holes, in these sheets, and as the coal from the mine cars passed over the sheets the smaller sizes would drop through the holes and the
1039 larger sizes would go on over and the small sizes were dropped through the holes and went by gravity chutes into one railroad car standing on one track under the tipple, and the larger sizes would keep on down over these sheets and over the holes and fall into other railroad cars standing on other tracks. When we shipped the coal mine run, as it is called, that is without screening it, we would lay flat sheets, that is sheets without holes, over the sheets that had the holes, and the mine run coal would go right on down to the car furthest out without having the small sizes taken out of it.

After the coal was dumped onto these screens, a man, or two men, would stand along the screens and take out the large pieces of slate if they saw any and other employes would stand in the cars and see that the coal did not pile up too high and roll off of the sides, and see that the cars were properly loaded.

Q. Who put the car in under the tipple?

A. The railroad company,—that is incorrect. The railroad company puts the cars on the mine tracks, at the tipple, generally above the tipple.

Q. And the tipple is situated on a gravity below the top of the place where they put the cars?

A. The railroad company puts the cars on what are known as mine tracks or sidings and the mine sidings have a slight grade to let the cars run by themselves without a locomotive, and the brakes are taken off, under the tipple.

Q. Where do your employes take charge of the cars when they are delivered by the railroad?

A. At the point above the tipple, where the cars are placed, our men would take them, let the brakes loose, drop the cars down under the tipple, tighten the brakes, stop the car.

1040 See that it was loaded, and after it was loaded, they loosen the brakes and let it drop, by gravity, further down the mine siding to a point below the tipple, at which point it was turned over to the railroad.

Q. Now, you have stated that 75 per cent of your coal approximately went to states other than the state of Arkansas. Could you have run the companies on the basis making it possible to operate, merely with your custom within the state of Arkansas, your 25 per cent?

A. No, we could not have operated at all, shipping inside the state of Arkansas alone. We had a need for extended markets, because at one season of the year they would want slack coal at one place, and lump coal at another place, while they would want lump coal in Arkansas in the winter time, they would not be taking slack coal and we had to sell that somewhere.

Q. So that your interstate markets were necessary in order to conduct business?

A. Yes, for the reasons I have mentioned, and there were not enough markets in Arkansas to warrant the operation of the mines in Arkansas.

Q. Was your trade to these other states you have mentioned just such trade as you could pick up from time to time, or had you any regular customers in other states?

A. We had customers in other states we shipped to, year after year.

Q. Beginning back to when?

A. Oh, many years. I cannot say how many years. Some particular customers.

Q. In what states had you any such regular customers?

A. Well, we had such customers I think in Missouri, in Kansas City.

Q. Where else if you remember?

A. Lincoln, Nebraska.

1041 Q. Where else? You have mentioned shipping your production into Texas. Did you have such customers there? A. Yes, at Dallas, Texas.

Q. You have mentioned Louisiana, had you any such customers in Louisiana?

A. I suppose so, but I am not sure. We shipped one year perhaps to a light plant in Louisiana, and some other year one of our competitors would get the contract and the next year we would get it again.

Q. Who was the selling agent for your coal?

A. The McAlester Fuel Company sold the most of it.

Q. Who was the active man representing that company?

A. J. C. Puterbaugh.

Q. Did he have charge of the selling of your coal then?

A. He had charge of the selling of our coal for commercial purposes, and when I say "commercial", I use that as distinguished from railroad coal.

Q. All coal sold, except coal going to railroad companies for their own use, was called commercial coal? A. Yes.

Q. Then Mr. Puterbaugh had the selling of all coal you produced except the coal you sold to railroads? A. Yes.

Q. Who sold it to the railroads?

A. We sold it directly sometimes and sometimes through the McAlester Fuel Company.

Q. What railroads, in a general way, were your principal customers in 1914, to whom you had made sales within two years before that, as a general proposition?

A. The St. Louis & San Francisco Railroad, the Texas Midland Railroad. I am not quite certain about the two years. It is hard to remember.

1042 Q. Going back within an approximate period of several years?

A. We sold coal to the two roads I have mentioned. The Southern Pacific Railroad, the Louisiana Railway & Navigation Company, the Rock Island & Pacific Railway, the Missouri, Kansas & Texas Railway, the Houston & Texas Central Railroad, the Texas Central Railroad, the Memphis, Dallas & Gulf Railroad. There are probably others.

Q. That is sufficient. Now, did those railroads all send their own cars to the mines to get the coal?

A. No, some did and some did not.

Q. Well, the ones that did not, how was the coal delivered to them? A. In the cars of other railroads.

Q. Do those railroads you have mentioned all run into the state of Arkansas?

A. The Texas Central did not and the Texas Midland did not; the Missouri, Kansas & Texas did not; the Houston & Texas Central did not, nor the Southern Pacific. The Frisco did, the St. Louis & San Francisco. The Memphis, Dallas & Gulf did. The Louisiana Railway & Navigation Company did not.

The Missouri & North Arkansas was in the state of Arkansas. We sold them coal.

Q. For what purpose did you sell them coal?

A. For burning in their locomotives.

Q. And do any of those railroads which you have named pass through or in the state of Arkansas run to states other than Arkansas in connection with their business?

A. The Frisco Railroad does; the Rock Island Railroad does.

Q. (By Mr. McDonough) The Missouri & North Arkansas does, does it not? A. I am not sure.

Q. (By Mr. Drinker) Are there any of those rail-
1043 roads you have mentioned which do not run through more than one state, their whole line?

A. The Houston & Texas Central does not, neither does the Texas Central.

Q. Are any of them located solely within the state of Arkansas?

A. The Memphis, Dallas & Gulf, I think, was. It is a small road and I do not even know where it does run except that it is in the state of Arkansas.

Q. Now, that coal that was sold to those railroads was sold to them, as I understand, for use in their locomotives and hauling their trains wherever they might go?

A. Yes.

Q. Now, you have described in a general way the development of these properties that you acquired in and around Hartford. Approximately how much money had you and Mr. Denman and your associations invested in that property in the spring of 1914?

A. Five or six hundred thousand dollars.

Mr. Warrum: To which the defendants separately object on the ground it is incompetent and immaterial in this case.

The Court: The objection is overruled. I assume it may be later, I dont know.

Mr. Warrum: Exception is reserved; and if the court please, we desire leave to add the additional ground that the question shows that it asks the witness to hodge-pot the whole thing. I believe there are nine different corporations, in one general answer on that proposition.

The Court: The owner may value his property. It is competent here merely as descriptive and nothing more.

Mr. Warrum: Exception is saved.

Q. Now, you stated you first came over into Arkansas in connection with your coal operations in 1902 or 1903.
1044 Now, what was the first property that you actually operated yourself in Arkansas?

A. A mine at Burma on the property acquired by the Denman Coal Company. It was known as the Red Rock Mine, I think.

Q. That was not in connection with this particular operation down here?

A. It was only operated for a couple of years.

Q. When was that? A. In 1903.

Q. Which one of these properties, Mammoth Vein No. 1, Mammoth Vein No. 6, Prairie Creek No. 3 and No. 4, Coronado, Dallas or Hoffman, was the first property you operated? A. Mammoth Vein No. 1.

Q. When did you start to operate that,—oh, within a year, it is not important? A. In 1904.

Q. Was the union established, the United Mine Workers union established at that mine when you began to operate it?

A. We began to operate it ourselvees, neither union nor non-union. It was just a field. The United Mine Workers of America were established in Arkansas at that time.

Q. When you started to operate that mine, did you operate it under contract with the union?

A. Under contract with the union.

Q. Was that a closed shop contract?

A. A closed shop contract.

Q. What do you mean by a closed shop contract?

A. A mine where you could not work anybody except members of the United Mine Workers of America.

Q. And what happened? Not to go into details, but what was the attitude of the United Mine Workers provided you would employ in a union mine a man other than a mem-
1045 ber of the union? I mean, what would the miners do when you put a non-union miner in there? I do not mean in any particular instance. I am just trying to have you describe the arrangement.

Mr. Grant: I desire to make an objection for each of these defendants on the ground that would be a matter of contract.

The Court: If there is a contract in writing, that is true.

Mr. Drinker: I withdraw that question.

Q. Under what are known as closed shop mines, do the United Mine Workers,—will they work with men other than union men? A. No.

Q. What do they do when non-union men are brought into the mines where they are operating under the closed shop arrangement?

A. They insist that they join the union or be discharged.

Q. What do the miners do if the men do not join the union? Do they continue to work at the mine or do they not?

A. I do not recall ever employing a non-union man at a union mine.

Q. Now, when you started to operate this mine you were operating under an arrangement with the union. When you started to operate the other mines one by one as you have described, were they started up under a contract with the union or not? A. They were.

Q. They were union mines?

A. Yes, they were union mines.

Q. Now, in what you have termed open shop mines, what is the arrangement relative to the employment of men in connection with their membership in the United Mine Workers, if any?

A. In an open shop mine men can work whether they
1046 are members of the union or not members of the union.

Q. Then you proceed with the operation of these mines, union in all cases? Did you ever make any attempt to open any mine non-union prior to 1914? A. In this field?

Q. Yes, right down here at Hartford?

A. In 1910 an effort was made to start a mine, the Mammoth Vein mine, open shop.

Q. Was that effort carried on,—carried through?

A. No.

Q. How long did you operate an open shop?

A. Oh, for a day or two only.

Q. Do you know why you stopped operating it open shop?

A. Yes, the men became frightened at a demonstration and quit.

Q. When you started to operate this mine open shop did the members of the United Mine Workers continue to work with you? A. No.

Q. What did they do with reference to working for this company? Did they refuse to work any longer with this company?

A. At that particular time the United Mine Workers were all on strike and had been on strike for some time, but we tried to put the mine at work open shop.

Q. Then you worked open shop how long?

A. For a day or two.

Q. And then you resumed again under what basis?

A. On a union basis, closed shop basis.

Q. Were you down at the mine yourself personally during that period when you were running open shop?

A. No.

Q. Where were you?

A. Here, or Kansas City. I was not there, I do not recall definitely where I was.

Q. Did any other of these companies, other than that one you have named, start up open shop at that time?

1047 A. I am not perfectly certain.

Q. Well then, how long did you continue operating on a closed shop basis after 1910, and under what arrangement with the United Mine Workers?

A. We had contracts with the United Mine Workers of America, from 1910 to 1912, until about the time we started to operate open shop in April, 1914.

Q. Now, going back again to your first start in this field, was your contract with the United Mine Workers in nineteen three and four, when you started up a contract between your companies direct and the United Mine Workers of America, or was it through some other instrumentality, through some other medium?

A. It was through the Operators' Association.

Q. What is the Operators' Association?

A. To go back as far as 1903 and 1904, or 1903, I am not quite certain; the mines we took and operated at that time were all working with the union. The first contract that I recall was between the Operators Association and the United Mine Workers of America, and we were a member of the Operators' Association.

Q. And in 1910, prior to this attempt to run an open shop, were you a member of the Southwestern Operators' Association?

A. It was in the first part of 1910, and in August, 1910, we ceased to be members of the Operators' Association and signed a contract with the miners, just between our own companies and the Mine Workers' organization.

Q. What was the Southwestern Operators' Association?

A. The Southwestern Operators Association was composed of nearly all of the operators operating closed shop mines in the states of Missouri, Kansas, Arkansas, Oklahoma and Texas.

Q. When you started up non-union in 1910, did you
1048 resign from the Operators' Association?

A. We resigned from the Operators' Association, and were later expelled. I do not know,—we resigned. I do not know whether the resignation was ever accepted or not, and we received notice we were expelled. I do not know that we were, but I got formal notice to that effect.

Q. When did you join the Southwestern Operators' Association again? A. After that?

Q. Yes. A. In 1912.

Q. When, after 1912, did you determine to,—when did you determine to open your mines again open shop?

A. In the spring of 1914.

Q. When did you begin to consider it?

A. At that particular time we had been considering it at various times for a number of years, but more definitely in 1913 I commenced considering it more and more strongly, and definitely made up our minds to do it in the spring of 1914.

Q. What were the considerations, between union and open shop conditions, which led you to that determination?

Mr. Warrum: If the court please, the defendants desire to object to the question and evidence sought to be introduced thereby, because it asks the witness to indulge in a process of comparison and giving his reasons, and the question ought to be what the conditions were in the open shop or the closed shop, and not detail an argument.

The Court: I do not think the question calls for an argument, but for a statement of conditions.

Mr. Drinker: I will withdraw that question.

Q. Were there any conditions, in connection with the operation of a mine on a union basis, as contrasted with the non-union basis, which made it more advantageous to
1049 operate on a non-union basis than on a union basis?

A. There was.

Q. And as a general proposition,—first, have you ever operated a mine,—a closed shop mine?

A. Closed shop?

Q. Yes.

A. The mines we operated here were all operated on a closed shop basis for years.

Q. Have you ever operated one on a closed shop basis before you came here? A. No.

Q. Have you ever operated mines on the open shop basis?

A. Yes.
Q. Where? A. In Indian Territory.
Q. And to what extent?
A. Oh, for about 400,000 tons of coal a year, for about three or four years.
Q. Had Mr. Denman also been connected with the operation? A. Yes.
Q. Now, contrasting the conditions relative to the advantages from operating, from an economic point of view, as between closed and open shop mines, what are the principal factors going into that difference?

Mr. Warrum: We desire to object to that for each of the defendants on the ground that the witness is asked to make an argument by way of contrasting, and for the further reason that it is immaterial what the reasons are that may cause him to change from one plan to another.

The Court: The objection is overruled, with the understanding that he is to confine himself to the conditions as they existed in the closed shop and the conditions he hoped to maintain in the open shop.

Mr. Warrum: We reserve our exception.

1050 Q. Describe the different conditions in connection with closed shop and open shop operations?

The Court: At this point we will take a five minutes recess.

1051 Mr. Drinker: Now is there a question that has been asked?

The Stenographer: It has been answered, I think.

Q. (By Mr. Drinker.) State the difference between the general conditions, bearing on the expense of operating coal property, between a mine operated on a closed shop basis and one operated on an open shop basis.

Mr. Warrum: We desire to renew our objection.

The Court: Objection overruled.

To which ruling and action of the Court, the defendants, and each of them, at the time duly excepted and still except.

A. In general, it lies in a partial loss of control of the management of the operation, by the operator.
Q. What do you mean by that ?

A. I mean for instance, that a coal mine requires to be developed. You have to drive entries. That is known as narrow work, to get working places in which the miners get the coal which forms the production of the mine. The production of the mine depends upon the number, it depends among other things, on the number of these working places, and the only way to get working places is to drive entries, and air courses, and slopes, which are called development work, or narrow work. It is very difficult to increase the production of a mine, unless the narrow work is driven faster than the working places are worked out. If it is not, the production remains approximately stationary. It is therefore very desirable to drive narrow work, and make development at periods of the year when the market for coal is such that you cannot sell the entire production of the mine. We ordinarily expect, in the necessity of doing this development work, that mines should be idle. Under the open shop conditions, it is customary among coal operators to
1052 do development work, not only when the mine is shipping coal, but also to do development work during what is known as idle periods, or comparatively idle periods, in the summer season, for instance, in this field. With the union there is always great difficulty in getting narrow work, development work done, during the idle periods, which keeps down the production of the mine, and the production of the mine is of vital importance. In every mine, there are a number of employees who have to be kept on, whether the production is small or large. For instance, the mine foreman, the hoisting engineer, the fire boss, whether the mine is big or little, or the production small or great, they have to be kept on, consequently the larger the production is the less per ton is the expense of the mine foreman, and those people who have to be employed anyway. Therefore, you want to get the narrow work driven, and more working places developed. With union mines, it is difficult to get the men to work in these narrow places, and do development work when the rest of the mine is idle. Another disadvantage of the union operation, is the reluctance, if not the prohibition of the union, of letting miners who wish to, to go into the mine, and work on what are termed idle days. Each working place, each room in the mine, [has] ordinarily conducted in this field is apportioned to one or two miners, and that is known as their room, or their working place and it is kept as theirs from week to week. Under open shop conditions, when a mine is shut down, that is to say, is not shipping coal on railroad cars, the ambitious man, the one who wishes

to work steadily, can go into the mines and do certain work. He can re-timber his room, or clean up, or even load some cars, or put in holes in the coal, and load them with powder, to have them shot, and do all kinds of work,
1053 except actually loading coal onto the cars to go up on top, and if he has one or two pit cars in his room, he can do that on idle days, and be that much ahead, so that the company's days run, the next day, will have a larger production. That is a benefit to the miner and the operator, because the miner works on a contract basis. They don't do that in a union mine. Another feature is that in union mines,—in open shop mines, where the coal is very thick, and in two, or even three miners can work in one room, and in Union mines this is frequently objected to. They only let one man work in a working place, although there may be enough work to do to keep two, or even three men actively employed, and that is only for a certain number of working days, in any one mine, and any one time, on any restriction of the number of men that can work at the same time in any particular working place in that mine, and it reduces very greatly the production of coal of the mine, and then, for instance another disadvantage of the closed shop mine, is a ruling that the miners will not go to work in the morning, unless a certain number of railroad cars are on the mine sidings. Mines are very often unable to run a whole day, because the railroad does not furnish the railroad cars to enable the mine to load into them, but at times, the car shortage, and nine times out of ten, the time of car shortage is the time of high price, the mine foreman will get information over the telephone, or otherwise from the division superintendent of the railroad, that although there are no cars at that moment on the mine siding, they will be sent there in a short time. With such information as that in an open mine, the mine foreman could tell the men to go down in the mine and load what few cars might be standing there from the night before, and when the other cars come
1054 in, and finish the days' run, but in closed shop mines unless there are a certain number of cars actually above the tipple, it is useless to tell the miners that they come. They will come, but won't go to work, and you lose the day, and at a time generally as I say, of high prices, because when cars are short, the production of fuel is low, and the people want coal, and are willing to pay more for it. Those are important features.

Q. Are there any features connected with the use of improved kind of machinery, in which there is a difference in

expense between the operation of a union and non-union mine?

A. Yes, sir. In the producing of coal, some using mining machines. Other mines don't. The purpose of a mining machine is to undercut the coal; to put a slot, perhaps five inches high, and back a distance of six or seven or eight feet under the coal, in the face of the room. With that, it takes a very small charge of powder up above will bring down the coal, and bring it down in good sized lumps. The other way to do is to put in these big charges of powder, not undercut the coal, and blow it off, by simply the force of the powder. These mining machines, are contrivances used to undercut this coal. They cost a considerable amount of money, two or three thousand dollars apiece. In addition to the cost of mining machines, it is necessary to provide electricity, or provide power to run them, and the wires into the mines, and takes the electricity from the surface into the machines, and all of that expenditure amounts to a great deal, and it enables the miner, after these machines are put in, to get his coal with less work, and with the use of less powder, which the miner pays for himself; he buys his own powder, the company doesn't pay for that, and the companies in open shop, feel that they are entitled, in consideration of
1055 furnishing these machines, and going to the expense of putting them in, and maintaining them, and operating them, to have the coal produced at the lower price per ton than that mined by hand, but in union mines, the differential is generally made so small, that there is not very much left, if any advantage to the coal operator, in putting in the machines.

And thereby, he loses, by getting out a poor quality of coal, and also endangers his property, because where they don't use machines, they generally shoot off the solid, and use big quantities of powder, which forms a dangerous condition, with a high explosive.

Q. As a general proposition, in connection with the introduction of cost saving or labor saving machines in coal mines, in a union mine, what is the result of introducing an improvement in a union mine that is in operation as such?

A. The general effect is to discourage the introduction, for this reason, that the miners are fully shrewd as the operators, and they can figure out by long experience about what the operators will gain by reason of the introduction of this machine, and insist that it is a new condition, and that their contract be amended in such a way that the advantage hoped for by the operator is entirely annulled, or

very largely annulled, and consequently the operator has little or no inducement but to bring about improvements in mining procedure in union mines in this field.

Q. And suppose an operator introduces such an improvement in his mine and merely goes on paying the same rate of wages, as under the arrangement prior to the introduction of the machine, what happens under union conditions? A. Will you repeat please?

1056 Q. I will strike out, and repeat the question over again. Suppose, in a union mine operating on a closed shop basis, an operator attempts to introduce an improved machine of some kind, not theretofore used in connection with mining, and merely offers to go on paying the miners the same rate of wages as they received prior to the introduction of the machine. what do the miners do?

A. If the machine saves them any work, they gladly accept it.

Q. Do they ever make any increased demand in connection with their wages?

A. Not as to new machines, as far as I know.

Q. I don't mean a new machine, but a new kind of machine, an improved method of mining the coal.

A. Not as to machines, but as to the method of mining coal, as to putting in the system of mining, which will bring about a greater recovery of the coal in the ground, when they are introduced or attempted to be introduced, the miners claim, under the contract, that that is a new condition, and they ask—or take advantage of it to ask for a change in the contract, which makes it undesirable for the operator to put that method or improved method of mining in.

Q. And what do they do, if the miner does not agree to pay that new rate of wages?

A. They just stay as they were, the operator leaves the operations as they were before.

Q. Suppose an operator put in a mining machine, where there has been no mining machine before, and merely offers to pay the same rate of wages as he was paying before, what does the miner do?

Mr. Warrum: I object to that, as asking this wit-
1057 ness for a conclusion.

The Court: Objection sustained.

To which ruling of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Q. In connection with the operation of Union—in connection with the non-union mines, are there any conditions

affecting the operation, relative to the question of holidays, or funerals or matters of that kind?

A. Yes, sir, under Union conditions, if a person dies, not necessarily an employee of the mine, but some child, or person dies in the mine community, or nearby, to a mining community, the miners will frequently refuse to work the mine the day of the funeral, or occasionally the day after the death, or the day before the funeral, but generally the day of the funeral; and in my observation very few of the miners go to the funeral, except those in the immediate family, and in the meantime the operator has to keep the mine pumped out, and keep all his monthly force on wages, and no production or sale of coal to help pay the expenses.

Q. Now, as a general proposition, is it cheaper to run a mine on a [closed] shop basis, or on a union shop basis?

A. It is cheaper to run a mine on an open shop basis.

Q. During the year 1914—the first part of the year 1914, did any of these considerations influence you in your decision to open your shop on a non-union basis?

A. Yes, sir, they did.

Q. Now, did you ascertain, without giving the result of your investigation, but had you made any inquiry in connection with the non-union operators in the vicinity to ascertain the difference between the cost of operating on an open
1058 and closed shop basis? A. Yes, sir, I did.

Q. In how many cases did you make such investigation? A. In one.

Q. And did that disclose that it was cheaper to operate union or non-union? A. Non-union.

Q. Could you say approximately what your investigation led you to believe would be the per cent of decrease in cost of operating non-union, over operating on a union basis? A. Not less than 20 per cent.

Q. Then, when did you and Mr. Denman finally make up your mind to open on a non-union basis?

A. February or March, 1914.

Q. And what was the first thing you did preparatory to that action, on your part?

A. Directed the superintendent of the mine to clean out some—a couple of buildings near the shaft, at Mine No. 4, in order that they might be used by the employees we expected to have on the open-shop basis.

Q. And what company did you determine to start in on an open shop basis?

A. The Mammoth Vein Coal Mining Company, operating Mine No. 4.

Q. Did that company operate before? A. No.

Q. And what properties on April 1, 1914, did the Mammoth Vein Coal Mining Company control, either by ownership or by lease?

A. The mine No. 1 of the Mammoth Vein Coal Company, and Mine No. 4 of the Prairie Creek Coal Mining Company.

Q. The Mammoth Vein Coal Mining Company, they had never operated before?

1059 A. No.

Q. Was the Mammoth Vein Coal Mining Company a member of the Southwestern Coal Operators Association?

A. No.

Q. Did—then did it have any contract with the United Mine Workers? A. No, sir.

Q. Now, when in connection with your preparation for opening your mines open shop, on what date did you determine that you would open them?

A. Saturday April 4th.

Q. What other steps did you take, besides those that you have described in connection with the preparation to run open shop?

A. I interviewed several men who agreed that they would make a start in operating the mine open shop, and I arranged with the W. J. Burns Detective Agency to have them send down four or five reliable men to see that there were no depredations committed.

Q. And why did you employ watchmen?

A. Because the men whom I talked to about going to work said they were afraid they would be attacked, if they went to work.

Mr. Warrum: The defendants will object to any statement that was made to him by the men. It was out of the presence of the defendants, as I assume, and ought not to by binding on them, any conversation he had with some man.

The Court: Do you expect to follow that up and show who they were?

Mr. Drinker: we merely wish to show that the reason for these watchmen was the fear of the men, that they feared they would be attacked. We have a right to show why he got these guards, and made these several preparations at the mine, in connection with the proposed operation,

1060 to be followed by proof that his fears were amply substantiated by the facts.

The Court: I think you might go as far as to show that fears were expressed but not what was said.

To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

Q. Now, without stating what was said, why was it that you employed men, or guards, in connection with your proposed operation of this plant, on an open shop basis?
A. Because I feared that the men that were employed would be attacked.
Q. And what was the reasons—what was the ground for that fear on your part?
A. The expression—
Q. (Interrupting.) What was the basis of it?
A. My own.

Mr. Warrum I believe we will object to that because it takes him back over perhaps all his own experience, and we would have to investigate it.

The Court: The objection will be overruled.

To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

Mr. Drinker It is understood that the exceptions are noted in connection with all the rest of the examination of the case?

The Court: Certainly.

Mr. Drinker: I understood that the general rule went to the end of the case. Will you read the question, please?

(Question read by the Court stenographer, Mr. Perkins, as follows: "What was the ground for your fear on
1061 your part, what was the basis of it")

A. General knowledge of intimidation and violence being used by the United Mine Workers at other times, when mines were started on an open shop basis.
Q. And without stating what any people told you, did you receive expressions from the men who were employed there of their fear of any such matter, without going into detail of what they said. A. Yes, sir.
Q. And how many men so expressed themselves to you?
A. Two or three, I don't recall the number.
Q. Now, how many men did you purpose to employ, and employed there at the beginning of your operation?
A. We intended to employ them just as fast as we could get them.
Q. And how many did you arrange with to go there and work on the open shop basis? A. About a dozen.

Q. Now, did you make—what men did you personally engage, giving their names, to go there and work on this basis? A. I engaged O. T. Looper,—

Q. (Interrupting.) In what capacity?

A. To go there and work at anything that he was told to do. And Andrew Beck, and Jake Ritchie, and John Patterson, Sr., and John Patterson, Jr.

Q. That was the names of the people—oh, excuse me.

A. I cannot think of any more than that. There were some more, I think but I can't think of them.

Q. Who was the superintendent? A. John Cameron.

Q. And who was his assistant? A. E. F. Hackett.

Q. And who was the mine foreman?

1062 A. John Patterson.

Q. And what were the names of the people that you arranged with to get from the Burns Agency?

A. The only man that I remember was a man there called "Chief Guard". I will get his name in a minute.

Mr. McDonough. Barnes?

A. Barnes.

Q. Now who were J. R. Bailey, and Elmer Searles, and Sam Brown?

A. Sam Brown was on e of the men, I don't remember whether he agreed to go work, with me or not. I don't remember of particularly speaking to him or not, or Elmer Searles, but he agreed to go to work, and so did Brown.

Q. Did you engage J. W. Shaleen?

A. I don't think I did, that is another man I overlooked.

Q. And Argo and Thrasher?

A. They were already in our employ they were clerks.

Q. Was John Patterson and Hackett already in your employ? A. Yes, sir.

Q. When did you start operating your mine on union basis A. I don't recall. The last day in March we ran for which we paid the men was on March 28th.

Q. What was done after that?

A. We were engaged in cleaning up around the place, and carrying out as much inflammable stuff as we could tear out.

Q. Why Did you do that? A. To prevent fires.

Q. And what else did you do there at that time?

A. We cleaned out those two houses I spoke of near the tipple, and took an old hoisting rope and fastened it around the tipple and shaft enclosing an eara, I suppose of two or three acres.

Q. Did you employ any local men to act as guards?

A. Yes, sir, I think we did.

1063 Q. Who were they?

A. I don't recall the names, but my impression is we employed some local men.

Q. How many? A. Three or four.

Q. Now, when were the guards put to work?

A. Shortly before April 4th; I have forgotten how many days before, but Barnes, I know was down there a few days before, because I remember of being there with him.

Q. And before you put the guards to work, what, if anything, did you do in connection with their employment?

A. I took Barnes, into see our attorney, Messrs. Read & McDonough, here in Ft. Smith, and asked them to instruct him as to what his rights and duties were, and what action he might take under given conditions.

Q. Under what general conditions—you mean in case of trouble down there?

A. In case of people unauthorized coming into the property, what he could do about putting them off.

Q. Was he given instructions of that kind?

A. He was given instructions by either Judge Read or Mr. McDonough.

Q. And what were the instructions that were given to him?

A. That he was not to put people off the preperty who had already come on to it, he could tell people they were not to come any further into the property, that if they did he was to use no violence—under no circumstances was he to use any violence of any kind, except in protection of his own life, or that of others.

Q. Now, how large are the houses—I mean how large was the area, that this rope went around?

A. I said two or three acres.

1064 Q. Did you put up any signs?

A. Yes, sir, signs were put up at intervals on this, "No trespassing" in nature, or something to that effect.

Q. Did you put up any lights?

A. Yes, sir, electric lights were put up at intervals with reflectors, throwing the light outside of the enclosure.

Q. Why was that done?

A. So in case any people would come up unexpectedly at night—so as to prevent people coming up unexpectedly and unseen at night.

Q. Now, did you purchase any ammunition or guns at that time? A. Yes, sir.

Q. How many did you get?

A. My recollection is that we purchased five rifles.

Q. Did you buy any cartridges for them?
A. And cartridges for them.
Q. Did you get any other kind of thing to be used by the men, to be used in their protection?
A. Not that I recall.
Q. Now, how long before April 4th were you at the mine yourself?
A. I was there several times previous to April 4th, once or twice.
Q. What were you doing?
A. Seeing that my orders were being carried out, and the things cleaned up about the place.
Q. Did you go over the property with Cameron and Barnes a few days before April 4th?
A. Yes, sir, I did.
Q. Did you go out there the night of April 4th?
A. I went out there the night before April 4th.
Q. What was the first day that you began loading coal on a non-union basis?
1065 A. On Saturday April 4th, I went out there the night before, and spent the night on the property, at the mine.
Q. Did anything happen that day, on April 4th?
A. We hoisted the coal during that day, not much, but some.
Q. When you were out there on April 4th, did Jim Slankard came out?
A. Oh, yes, Jim Slankard came out, I didn't know it was Jim Slankard until he introduced himself.
Q. Who was he?
A. He was a miner, and I understood constable or some peace officer at Hartford.
Q. Was he one of the your miners, did he work for you before?
A. I don't know whether he did or not, I don't think so, recently, but I am not certain about that.
Q. What was your meeting with him, what was the upshot of that?
A. He came up to this rope we had stretched around, and someone came there and told me he wanted to see me, and I went over there with Barnes, or Barnes was already there, I don't know, which, and Slankard seemed to want to know what we were doing and we told him what we were doing, trying to operate the mine, or that we were going to operate the mine, and he expressed the hope there would be no trouble, and we said that we certainly trusted our-

selves there would be no trouble, and I suggested that he might stay out there with us and help prevent any trouble.

Q. And was anything more said?

A. Not that I recall at the moment.

Q. Did anything else particularly happen at that visit on your part? A. No, I don't recall at the moment.

Q. Now, where did you go from there?

A. Fort Smith.

Q. And where—you stayed at Fort Smith then Sun-
1066 day and Monday?

A. I was here on Monday.

Q. What date was Monday? A. April 6th.

Q. What was the first you heard of any trouble down at the mine?

A. A telephone message some time in the afternoon, is my recollection, from John Cameron, the superintendent.

Q. And without detailing that conversation what was the upshot of it?

A. He said a mob had come in, and broken over the ropes, that they were then beating up the guards. and were all over the place, and that he would have to quit.

Mr. Warrum: We are objecting, if the witness is going to detail the conversation, but if he says there was trouble, we have no objection.

Mr. Drinker: We will show that these defendants were at the other end of the telephone, when this took place.

The Court: You say they were?

Mr. Drinker: Yes, sir, I think in the same room.

Q. What was the gist of the conversation had, it don't matter about the details.

The Court: I don't think he should state what the conversation was until a foundation is laid for it. I think that a foundation should be laid.

Q. What did you do as the result of the conversation?

The Court: That is all right.

Q. Did you give any instructions to Mr. Cameron?

A. Yes, sir, I told him to quit and come to Fort Smith, and that is all I remember telling him.

Q. And did you go anywhere on the evening of that date? A. Yes, sir, I went to the hospital.

Q. Why did you go to the hospital?
1067 A. To see the men who had been beaten up.
Q. Now, who did you find at the hospital?
A. I found Looper, and Silsbury, and Barnes, and Bailey.
Q. And in what condition were they?
A. Badly beaten up.
Q. What wound did they have on them?
A. They were bloody, and had their teeth knocked out, and bleeding from cuts on the face, and as to details, I don't remember, except that they were in a shocking condition.
Q. Who went with you there? A. Judge Reed.
Q. And who else? A. Mr. Finley.
Q. Now after this occurrence—at the time of this occurrence, was the Coronado mine in operation?
A. No, it was shut down on that day, I think.
Q. On what account?
A. The men didn't go there to work.
Q. And what, if any, action did you take, after this occurrence, in connection with your membership, or the membership of your companies in the Southwestern Operators Association, and when and on what date?
A. I think it was April 14th, in fact I am quite sure it was April 14th, I went to Kansas City, and went to a general meeting of the operators association, and told them I was no longer a member of the association.
Q. And did you continue to pay dues—did any of the companies members of that association, continue paying dues to that association after that date? A. No, sir.
Q. What was the last month in which any of the companies that you repreesnted paid dues?
A. January, I think it was.
Q. Of the companies who were operating mines out at
1068 Hartford and vicinity how many companies under your representation, were members of the Southwestern Coal Operators Association at that time?
A. My recollection is that the Coronado Coal Company, the Mammoth Vein Coal Company, the Prairie Creek Coal Mining Company, and I think that is all of the Arkansas companies.
Q. Now, when you went and withdrew from the Association, as you have stated, did you do so on behalf of any particular company, or all the companies that you represented?
A. All of them.
Q. You had theretofore been the representative of these companies in the association, and so recognized?

A. Yes, sir, generally I was, but sometimes Mr. Denman would go, generally I would.

Q. And there is a distinction, I understand, between the Mammoth Vein Coal Mining Company, and the Mammoth Vein Coal Company? A. Yes, sir, there was.

Q. Two different companies?

A. Two different companies.

Mr. Drinker: Now, if your Honor please, in the order of the development of our case in this connection, we would like to withdraw Mr. Bache, subject to cross-examination at this time, with leave to put him on later, in connection with later events. We think it will develop the case better if we can develop it with our witnesses this way, chronologically. We can turn him over to cross-examination on the events so far.

The Court: I don't think we want to try the case in parts.

Mr. Drinker: On all of the questions, of damages
1069 and everything?

The Court: Everything. You might leave the question of damage, if you like, but up to that, at least, but otherwise you are apt to go over the same ground again, and the Court cannot tell whether you are covering the same ground or not.

Mr. Drinker: We have it pretty well lined that way.

The Court: Of course you are not the only one, but the jury has to know and counsel and the Court.

Q. (By Mr. Drinker.) Now, Mr. Bache, what was the next event of interest in this vicinity, after the 6th of April, down at the mine, of which you have any knowledge.

A. I went to the hospital the night of the 6th, and on the night of April 6th, and following day possibly, the affidavits were taken of Mr. Cameron, the superintendent, and I think of the wounded men. On the night of the 7th, I went to Little Rock with Judge Reed, to apply for a temporary restraining order, and we got there on the morning of Wednesday, April 8th, and Judge Reed applied for an order, which was granted.

Q. By what Judge? A. By Judge Triebor.

Q. Then what did you do?

A. We returned to Forth Smith that night, and got here the morning of the 9th.

Q. And what was the next thing that you had to do in connection with this matter after that? Did you see any of the occurrences in connection with this trouble down there during the days following April 6th, yourself?

A. No, not down there, because I didn't go down there again until some time afterwards. I didn't operate the mine for some time afterward. I tried to operate it.

1070 Q. Did you go down to visit the mine after this April 6th trouble? A. Not immediately after, no.

Q. How soon after did you go down?

A. I don't recall the first date that I went down after that. The first thing that happened after that, I got back from Little Rock, that I have a recollection of, was getting our witnesses together, and preparing, or helping Mr. McDonough and Judge Reed prepare for the hearing on making the injunction permanent.

Q. When was the next time that you went down to Prairie Creek—how long afterwards?

A. It must have been along in May.

Q. What did you find when you went down over the ground there, the mine in operation?

A. No, I didn't find the mine in operation.

Q. What had been done to the mine, since you had been there before?

A. The mine was flooding badly with water.

Q. Why was that?

A. Because the pumps were not working, and the pumps were not working because the boilers were not being fired, and they were not being fired because we couldn't get anybody to fire them.

Q. What did you find was the result in the mine, in connection with that matter?

A. I found that the water had arisen to a considerable depth in the shaft.

Q. Where is the mining machinery? Where are the pumps located?

A. In the bottom of the shaft, the shaft bottom.

Q. The water was up over the pumps then?

A. The water was up over the pumps.

Q. What was it necessary to do to get that water

1071 out, to start operating again?

A. It was necessary to have men to fire the boilers, and run the cages. The pumps were under water and we could not run them any more, because they were drowned out, and the only way that we could get the water out was to put other pumps in, or hoist it in buckets.

Q. Was that being done when you got there in May?

A. Yes, sir, I think every time that I was down there, Mr. Drinker, the mine was in process of being unwatered.

Q. How long did they take to get the water out of the mine?

A. We got the water out of the mine I think twice. Of course, on April 6th, the mine was in perfect condition, and the water was out, and they were actually hoisting coal. When the men were driven off, the mine was flooded again —was flooded—and when the men went back, the first thing they did was to commence getting the water out, and when they were driven away from time to time, the water would commence to gain again.

Q. Then after your visit at that time, when was the next time you visited the mine?

A. I don't remember the exact date. I went up and down a good many nights and the day time too.

Q. And you found the mine was being operated?

A. The mine was never being operated when I was down there, the mine was always being pumped out.

Q. When, if at all, did they finally get the mine pumped out?

A. They finally got the mine pumped out, I think early in June.

Q. Did you have anything to do—

A. (Interrupting): And then it filled up again, and then we got it pumped out, as we thought, finally, in the early part of July.

Q. How early in July?

1072 A. About the 10th, I would say.

Q. Did you get at the time on the 10th, to a point where you could hoist coal? A. Yes, sir.

Q. On what day, did you get to a point when you could hoist coal? A. Between the 10th and the 17th.

Q. And were you down there between those dates?

A. I was there about the 10th, I won't be—I was there just before the water was gotten out.

Q. And then you found the mine in condition to presently begin to hoist and ship coal?

A. I went down and stayed two or three days and nights, and wanted to take charge myself of getting the water out, that was the important thing, in order to hoist coal.

Q. When you were there in May, how many men were employed there by you? A. Fifty or sixty I guess.

Q. And what were their occupations?

A. Some of them were engaged in firing the boilers, others as engineers, on three shifts, we worked twenty-four hours a day hoisting water, and they were engaged repair-

ing the damage done to the shaft, so we could hoist water, and others were engaged as guards and protecting the property, and still others, if my recollection is correct, were engaged in getting, or trying to open up a little pigeon hole mine, but I am not certain whether we did that then or later.

Q. How many were engaged in the operation of guards?

A. Generally four or five on a shift.

Q. Now, did you provide any additional arms and [ammuniation] after the April 6th experience?

A. Yes, sir, when the men went down before the Cleary hearing, which was in April, I think, we got them some rifles then.

1073 Q. Did you buy any rifles right after the April 6th trouble?

A. I don't think we bought them right afterwards, because there was no purpose for buying them.

Q. When the men went back, right after that?

A. Yes, sir, when they went back.

Q. How many—do you remember how many you bought?

A. I think we bought sixty or seventy, throughout the trouble, but what days we got them I don't recall.

Q. Between what dates did you buy sixty or seventy riffles? A. Between the first of April and July 17th.

Q. Now, how much ammunition did you buy for those rifles?

A. I don't recall, but several hundred rounds, or probably several thousand rounds.

Q. Did you buy any rifles after the 17th of July?

A. I think not.

Q. Now then, when you were down there on the 10th of July, you stayed two or three days, there where did you go?

A. I went to Philadelphia.

Q. How long were you in Philadelphia?

A. Until the 18th or 19th.

Q. And when you were in Philadelphia were you informed of the events that happened on the 17th of July?

A. Yes, sir.

Q. And what did you do then? A. I came back.

Q. And where did you go then?

A. To Fort Smith.

Q. And what did you find when you came back to Fort Smith?

A. I found the office full of former employees, who wanted to get their pay, and a place to live, and that kind of thing, and some of them wanted to get jobs, to see if I

get them work some place else, and I found that the
1074 properties had been destroyed on the 17th, and everything was entirely demolished, it was up in the air, as far as anything could possibly be.

Q. And how soon after that did you go down to the mines?

A. I don't recall how soon after that, I don't think I went down again until November, probably.

Q. You didn't go down there after July 17th?

A. No, sir, I stayed here during August, and was back east in Septemebr.

Q. Why did you not go down and see what had happened to the properties?

A. I didn't think it was worth while, I heard there was nothing to see.

Q. And what other events were you connected with, in connection with this controversy, between the time you went in May and in July?

A. I was appointed receiver by the United States Court, about July 23rd.

Q. Was that after all of these properties were—

A. (Interrupting.) Destroyed.

Q. But before the receivership, did you participate in what you would call the Cleary hearing?

A. Yes, sir, that was in May.

Q. Now what was that, what was the first hearing before that, after you got the injunction from Judge Triebor? Was there any other legal proceeding?

A. The first hearing was a hearing by the State Labor Commissioner,—I think that is his title, Mr. Cleary, J. C. Cleary, I think that is his correct title.

Q. Now, where was that held?

A. That was held here in Fort Smith first, and then was adjourned to Hartford, and then came back to Ft. Smith.

1075 Q. On what date?

A. It was held here previous to May 1st. It was in Hartford on May 1st, and came back here and continued here, and on up until May 4th, and on May 4th was the date set for the hearing on the contempt—or on the injunction, making the injunction permanent, and the Cleary hearing adjoured until the end of that hearing. That hearing lasted four days.

Q. Where was that hearing held?

A. That was right here in this court room, about May 4th, 5th 6th and 7th, or perhaps a day later, and then the court took the injunction matter under advisement for a day or two, and the Cleary hearing was resumed, and the Court an-

nounced that he was ready to make his dicision, and the hearing adjourned, to come here to learn the Court's decision on the permanent injunction.

Q. And then what other proceedings were taken in connection with the injunction, after that, that you participated in? Were you present at a hearing on the contempt proceedings?

A. Yes, sir, I was here. I heard part of the contempt proceedings.

Q. Did you testify in that proceeding?

A. I don't recall.

Q. You testified in the first injunction proceeding, did you? A. I think I did.

Q. Then, what was the result of the—after the contempt proceedings, what was the next proceedings taken? Your appointment as receiver?

A. I think that was the next proceeding in this Court, was my appointment as receiver.

Q. When was that? A. On July 23rd, I think.

Q. After that what was the next proceeding?

1076 A. Some more contempt proceedings, I think. The contempt proceedings were in process. No, I believe the Court had the contempt matter under consideration at the time of the battle of July 17th, and then they were reopened after that, and continued for some days.

Q. And were you appointed receiver after the battle, or about the time of the second hearing on the contempt proceeding?

A. Yes, sir, before the second hearing on the contempt proceeding.

Q. Then as receiver, how long did you continue to operate those properties? Did you attempt to operate them?

A. We made no attempt to operate the properties for some months after I was appointed receiver; not until October—I think it was the 27th or 28th of October, is the first attempt to reopen the mines, and operate, that was made as receiver.

Q. And when you attempted to operate the properties—

Mr. Covington: I want to object to that. Here is a date on which this inquiry occurs, and that is not one of the dates, that is long subsequent to the time that they allege the date of the injury. We object to the introduction of any testimony after the date set out in the complaint, and that was even after this suit was filed.

The Court: I assume that the condition of the mine, and what they did, even after the date, would be necessary to go into in order to establish what damages there were. They

could not be confined, necessarily, up to the time of the injury to the mine, and stop there, but if they took hold of the mine in a reasonable time, and show what the condition was, or what they tried to do, or what was done, I think they would have a right to do that. I don't know what this will
1077 lead up to.

Mr. Drinker: This is merely history. We don't claim any damage resulting in what was done after the suit was filed. One of the main items of damage that we claim is on account of the forfeiture of the leases, and that came after.

The Court: You will be protected in any element of damage entering into this afterwards. The objection will be overruled.

To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

(By Mr. Drinker:)
Q. When did you start to operate the properties as receiver? A. October 28th.
Q. And what happened to you then?

Mr. Covington: We object to it as immaterial, what happened to him then. The rule is well established that any evidence at all, concerning what happened to him after the date on which he alleges the injury occurred, is inadmissible. He might state the condition of the property. by way of defining the damage sustained, by reason of its destruction. but what happened to him after he began operations as receiver, there is no allegation here covering that.

The Court: Or what they tried to do with the property, and was unable to do by reason of the condition that it was left in on the date named in the complaint.

Mr. Drinker: We don't want to enter into that, because he don't know [pereonally] about the events, but this is general history. We are going to contend, your Honor, that
1078 it is relevant to show that even these defendants, did after the date of this attempt to destroy our property. Our property and business was not destroyed on one day, it has been going on ever since. I don't mean that literally, but the injury to the property and good will continued, as a continuing transaction. Furthermore, we contend, that this conspiracy was a continuing and continual transaction, and under the decisions, it is proper to show that a conspirator did after the culmination of the thing, in order to reflect what the nature of the conspiracy was before.

The Court: Yes, sir, but you come down to a special injury of the property. Now, if there was injury to the property after the date you claim, there could be no proper way, except to enhance your damages.

Mr. Drinker: We don't claim damages for things destroyed afterwards, but we will show that the conspiracy continued afterwards, in order to prove, or help prove, that the conspiracy was the same as before. We won't claim damages to the property, there was not much of it. Now, we are going to show—

The Court (interrupting): I think I have it now.

Objection overruled.

To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

Q. What happened on the 28th of October, if you know personally say so, and if you don't know state what you do know about it.

A. I sent John Shaleen down October 26th, 27th and also sent him down with some United States Deputy Marshals. I
1079 was unable to get him to go down before we had the marshals, and he went down with a number of men, at my direction, and what happened down there I cannot say, I was not there.

Q. What was the first you know about what happened?

A. It was about two days afterwards, he came back with his men.

Q. He came back, and what did he report as a general proposition, about whether the properties were capable of operation?

Mr. Covington: We object to it on the ground that it is incompetent. Judge Sanborn, in 143 Fed. says that a statement of a co-conspirator, can not be taken as a declaration against another conspirator, only as an admission against himself.

The Court: No, Judge Sanborn didn't say that, because after a conspiracy is proven, then any act in furtherance of the conspiracy is admissible.

Mr. Covington: I will read it to your Honor, it is a short opinion.

The Court: I would not take the time to hear it.

Mr. Warrum: Senator Covington means after the consummation of the conspiracy.

Mr. Covington: I didn't mean to say before the conspiracy.

The Court: Who was this man?

Mr. Drinker: Our employee, our [men], he was not a conspirator.

The Court: Objection overruled.

To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still excepts.

Q. I will change the question to make it entirely unobjectionable under any rule of it—what did you do as the result of what Mr. Shaleen told you when he came back? Did you continue trying to operate the property or not?

1080 A. I told him that under the conditions existing it was useless to try to operate the property until we got better protection.

Q. Then what happened after that? What was the next big event that happened after that? Did you apply for protection to anybody?

Mr. Covington: We object.

The Court: Objection overruled.

To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

Q. Did you apply for protection to any power other than the Federal Court, and the county officers before that? If so, to whom?

Mr. Covington: We object.

The Court: Objection overruled.

To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

A. I had written to the president of the United States, as to the matter, after I was receiver.

Q. Have you that letter here in Court now?

A. I have a copy of it, I have not it in court.

Mr. Drinker: We had not anticipated that we would get to this branch of the case yet—

The Court: It is after adjourning time. We will now stand adjourned until tomorrow morning at 9:30.

1081 Ft. Smith, Ark., October 27th, 1917.

Pursuant to adjournment as last aforesaid, on Saturday October 27th, 1917, at 9:30 o'clock A. M., came all the parties as before and the trial of the case proceeded as follows:

Mr. Drinker: If the Court please, there are certain of these papers and books that have been produced but which have not been used as yet, and we are entirely willing to have the other side have access to the books, but as to those which have not been used as yet in order to avoid any possibility of there being lost, we would like to have your Honor provide that they be kept in the clerks' office.

The Court: I do not think I will do anything of the sort. I think these gentlemen are acting in perfect good faith and will not make any such order. Call your witness.

FRANKLIN BACHE, recalled as a witness in behalf of the plaintiffs, testified further as follows:

Direct Examination (Cont'd.)

By Mr. Drinker:

Mr. Drinker: I will ask the stenographer to mark for identification this letter as Plaintiff's Exhibit 35, which consists of three pages.

Stenographer marks letter so produced.

Now I will ask the stenographer to mark this letter as Plaintiffs Exhibit No. 36.

Stenographer marks letter so produced as requested.

Q. Mr. Bache, in the fall of 1914, did you write a letter to the President of the United States, as receiver, relative
1082 to this controversy? A. Yes.

Q. Did you write more than one letter to him at that time? A. No.

Q. Will you examine the paper marked by the stenographer "Plaintiffs Exhibit 35 J. K. P." and state whether that is a copy of a letter which you sent the President.

A. Yes, sir, that is a copy of the letter I sent the President.

Q. Is that copy in exactly the form, as to everything which you sent him, including the date?

A. To the best of my recollection it is, except possibly as to the date. I think I held the letter a week after I wrote it thinking I might have a chance to see the President myself, and I may have changed the date when I sent it out.

Mr. Warrum: If the Court please, we object to any statement by the witness except in answer to the question asked.

The Court: There has been no immaterial response made so far.

Q. Did you receive any reply to that letter, from the President? A. No.

Q. What did you receive? Did you receive any letter from any official of the government in answer to that letter?

A. Yes.

Q. Will you examine the paper which has been marked "Plaintiffs Exhibit 36, J. K. P." and state what that is.

Mr. Warrum: The defendants desire to severally object to the interrogatory propounded to the witness. We desire now to object to the interrogations of the witness as to the correspondence he had as to facts that occurred after the institution of this suit, of this character.

1083 The Court: I assume, gentlemen, from the reading of the complaint, which I have reread this morning, that the rule does not obtain, that was urged yesterday evening by counsel for defendants. It is not claimed that this conspiracy ended with the commission of this offense charged here, but it is claimed here that this was simply an incident in the great conspiracy, to the movement of that conspiracy, and that it continued on. The action here is for damages to this particular thing, but the conspiracy was formed before, existed at the time, and has continued since. I have, as I say, reread the complaint and that is the theory the Court gets from such reading; and therefore, the rule that was urged with reference to conspiracy would have no application.

Mr. Warrum: The objection on behalf of the separate defendants which I am urging this morning is not to any conspiracy or,—to any act of any conspirator or act of any co-conspirator, but acts of the defendants which occurred after the suit was instituted.

The Court: The Court is of the opinion that the conduct of the owners of the mines with reference to their mines, what they did with them afterwards is material in this, that it goes to show the condition in which it was left and what it was possible to do with it. I assume that is all it is material to show.

Mr. Warrum: I will just save an exception and present it furthur later.

Mr. Covington: I do not understand,—it is true they allege a continuous conspiracy. Now, under all of the authorities I have been able to gather, a conspiracy as far
1084 as the plaintiffs are concerned, is consummated and ends with the injury complained of.

The Court: What is the distinction? Ordinarily a conspiracy as alleged is a conspiracy to do a certain thing, a conspiracy to defraud people by use of the mails, a conspiracy to kill an individual, a conspiracy to burn a property of some individual alone, a conspiracy to destroy the property of one individual; but here the conspiracy is alleged nation-wide, extending from the time of its formation and continuing on down until some time in the future, not with the purpose of destroying the property of this defendant alone, but a conspiracy to force those owning mines to employ only union men, and to force non-union men into the union, to stop the production of coal, and, in this case, thereby interfering with interstate commerce, and then it becomes a violation of the national statute. This injury sued for, as alleged, as I understand it, is simply an incident in the march and progress of this great conspiracy which they have alleged. Do I get your idea, Mr. Drinker?

Mr. Drinker: Yes.

The Court: I re-read it last night to get my own thought of what was attempted to be set forth.

Mr. Covington: It is true that the complaint set forth is that, but notwithstanding the allegation they can only sue for the injury they sustained.

The Court: But they can sue for that injury as an incident rather than a consummation of the entire purpose.

Mr. Covington: But they allege that, as a result of this conspiracy, they suffered this particular injury. Now,
1085 when the injury is done, their action is based on that specific injury.

The Court: It must be.

Mr. Covington: And subsequent actions on the part of the plaintiffs the defendants could not be considered. Suppose two of the participants, say in the destruction of property,—on the point I stated to you yesterday afternoon—

The Court: (Interrupting.) It did not occur to me that that was in the case at all, that there was a claim of that kind.

Mr. Covington: The case I cited yesterday, after the postoffice was robbed, one of them made a confession.

The Court: I am very familiar with that rule. I have prosecuted hundreds, literally hundreds of men, who had been robbing postoffices, from two to four a month, and there

is no question under the various situations you spoke of that when one of the co-conspirators makes a confession, it is only as to him alone and cannot bind his co-conspirator.

Mr. Covington: In this instance they seek to introduce letters from the heads of the corporations, letters written to the President of the United States, then the witness, if I understand it, is asked, "Did you receive any letters from any other governmental official?"

The Court: I have not any idea yet of what is being offered, and I think I will hear what it is so that I can see. I have no idea of what is being offered.

Mr. Drinker: I am not going to offer this letter yet. This deals with the question of ratification and I am going
1086 to offer it later. I am now merely asking the witness to identify the letters while he is on the stand.

The Court: The objection is overruled.

Mr. Covington: To which defendants except.

Q. Mr. Bache, do not state the contents of it, but merely state what that letter is.

A. It is a letter addressed to President Bache, receiver, signed W. W. Wilson, Secretary.

Q. Does that purpose to be in answer to the letter you identified before this? A. Yes.

Q. On that letter there are some figures in pencil. Were they on the letter when you received it? A. No.

Q. Will you kindly look at the next paper marked "Plaintiffs Exhibit 37, J. K. P." and state what that paper is.

A. That is a letter addressed to John P. White, International President of the United Mine Workers of America and signed "W. B. Wilson, Secretary."

Q. Was that letter received by you in connection with the one which you have previously identified?

A. It was enclosed with Exhibit No. 36.

The Court: These letters, I take it, were received in the United States Mail?

Q. Were those letters received in the United States mail, Mr. Bache? A. Yes.

Q. Now, at the end of that letter which you have last identified, there is some writing with a pen; was that writing on the letter when you received it? A. No.

Q. It is after the signature.

A. No, it was not.

Q. The signature "W. B. Wilson" was on there, was it?

1087 A. Yes.

Q. And the initials in typewriting on the left hand corner, were they on there? A. Yes.

Q. Everything then was on there except what is written in ink after the initials?

A. Yes, and the file number on the second page.

Q. The file number on the second page in pencil was not on there when you received it? A. No.

Q. Did you state the dates of those several letters?

A. No.

Q. What was the date of the letter received by you from W. B. Wilson? A. November 2nd.

Q. Did you receive that,—

Mr. Warrum (interrupting): If the Court please, that is no date at all.

A. (Continuing.) 1914.

Q. How soon after that date did you receive that letter, to the best of your recollection?

A. I have no definite recollection. I do not know when. Shortly afterwards, no doubt, but I do not recall the incident of it being delivered by the postman.

Mr. Hull: Keep your voice up, Mr. Bache.

A. (Continuing.) I do not recall of its being handed to me by the postman.

Q. Did you receive it within a few days after that date?

A. I suppose so, Mr. Drinker. I do not recall the incident of the postman handing it to me.

Q. Did you receive it on or about that time?

A. I presume I did; I have got the letter and it is dated November 2, 1914, addressed to Ft. Smith, Arkansas,

1088 and it would take two or three days to get here, and I doubtless received it about that time.

Q. In your testimony yesterday you gave a general statement as to the size of these operations you have been engaged in. About, approximately how much—what amount in wages had been paid out by you and by these companies you have been interested in during the period you have described, after you came to Arkansas? Merely to give an idea as to the general extent of your business in this community.

Mr. Warrum: To which the defendants separately object, and to the evidence sought to be introduced in the answer, as immaterial, and as throwing no light on the plaintiffs con-

tention as to the issues in this case, and it does not serve to determine any issue entering into the question of damages, what wages were paid through a period of eleven or twelve years.

Mr. Drinker: It is merely along the line of the description of the extent of his operations.

The Court: I think you have gone into details and shown that. The objection is sustained.

To which ruling of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Q. Now, Mr. Bache, are you familiar and have you been familiar for the past ten years, and particularly in 1914, with the conditions of the coal markets in the various states, and of the relations between the competitive conditions in the sale of coal as between the different coal mining communities in the different markets? A. Yes, sir.

1089 Q. I hand you a map, merely in order to refresh your recollection as to the location of the various communities producing coal in the United States, and ask you to give a statement as to—first as to the location of the various coal fields in the United States.

A. Starting at the east, the Pennsylvania Anthracite field, first, then moving a little further west,—

Q. (Interrupting.) Where is the Pennsylvania Anthracite field located?

A. In the northeastern part of the State of Pennsylvania.

Q. Is there any other anthracite coal in the United States?

A. Practically none. There is some so-called anthracite coal in Arkansas and a little in Colorado and a little in Rhode Island.

Q. Well, go on to the bituminous fields.

A. Going west, all the rest of the fields are either bituminous or lignite, and the first field going west is Pennsylvania, and that coal field in Pennsylvania is continuous along the Appalachian mountains through west Virginia, southwestern Virginia, eastern Kentucky, east Tennessee and northern Alabama.

Q. You mean that there are one or more veins of bituminous coals that runs practically continuous in one seam all the way through that territory?

A. Not practically one seam all the way down, although in several instances one seam runs from one state into another state, but the strata of rock in which one particular seam occurs is continuous from state to state. One seam will become

thin as it goes into one state and go out entirely and perhaps another seam will come in, in about the same strata of the rock, or the same leaf of the book as used in the illustration I tried to make yesterday.

Q. Proceed, Mr. Bache, going west.

A. Going west there is what is known as the Central
1090 Field, that is coal lying in Ohio, Indiana, Illinois and Michigan and western Kentucky.

Q. Is that all thought to be one seam or one basin?

A. It is one basin geologically, but it is a number of seams, and the same seam runs continuous, but the rocks in that geological age are continuous through it.

Then, going across the Mississippi River there is a coal field in Iowa and then we have what is known as the southwestern field,—Missoûri, Kansas, Oklahoma, Arkansas and northern Texas. Then there is quite a jump until you get out to the Rocky Mountain Field, which is in Wyoming, Colorado, New Mexico, Montana and Utah. West of that is the coal in Washington and there is a little coal in California, but it does not amount to anything.

Q. Does that comprise in a general way all of the coal fields in the United States.

A. That comprises all of the anthracite and all of the bituminous fields in the United States. In addition to that in some of the states there is a low grade of coal which contains a good deal of water and it is called lignite. That occurs in Texas and in Wyoming and some of the northern states. I am not very familiar with the lignite outside of the points I have mentioned in Texas and Wyoming. It is not a very important production.

Q. Beginning back over again in the description of these various coal fields, will you state the [competitite] conditions between the markets and between the coal producing communities receiving, consuming and mining anthracite and bituminous coal.

A. Well, Pennsylvania Anthracite coal competes—the small sizes, that is the small pieces of coal that pass over the small holes in the screens, are used in the eastern states and
New England states for steam coal, to make steam
1091 under boilers; and those small sizes come in competition at those points with the bituminous coals produced in Pennsylvania, Virginia and West Virginia and Maryland; I overlooked Maryland in speaking before. The Pennsylvania lump coal is used throughout the east as a domestic coal in households and does not come in competition directly with

bituminous coal there. But the Pennsylvania lump sizes, the larger sizes, are shipped up into the northwest, both by rail and by rail and lake, sometimes by rail and lake to Duluth at the head of Lake Superior and sometimes by rail through Chicago and the west. Up in that country the Pennsylvania anthracite comes in competition, as a domestic fuel, with coal mined in Arkansas. In these mines down in Sebastian County, and through the States of Iowa and South Dakota and Nebraska and Minnesota, at a price—

Q. (Interrupting.) What are the conditions which determine whether or not the coal from one field will come into competition in a given market with the coal from another field?

A. The adaptability of the coal to the particular purposes for which the customer wants it; for instance, in the northwest, if the prices were equal, for coal that is delivered in a man's bins in the cellar of his house, he would rather have Pennsylvanit anthracite; it is a cleaner fuel. But, if there is a difference in price, he will take the Arkansas smokeless coal which is mined in these fields here. The coal here is a soft coal and not as desirable as the Pennsylvania anthracite, but if there is a sufficient difference in price, why he takes it.

Q. What are the factors which determine the price of coal in the market?

A. The cost of production at the mine and the cost of transportation from the mine to the point of consumption;
1092 those are the two things that make up the price of the coal in the bins of the retail dealer and the price to the consumer is what the retail dealer asks for hauling it to the man's house, the cost of handling, and his profit.

Q. Proceed. Is there any other respect in which anthracite coal competes with bituminous coal?

A. The small sizes of anthracite coal, the steam size, to be used in boilers, compete with bituminous coal wherever they meet. That is largely in the eastern part of the country.

Now, to go a little south, the coal in West Virginia, the [Pochahontas] and New River coal in West Virginia is a smokeless bituminous coal, very much like the Sebastian County Arkansas coal. That coal also is shipped from West Virginia both by rail, or shipped by lake, and put on steamers and shipped by lake steamers to the head of Lake Superior, and by rail from the head of Lake Superior to points in Minnesota and the northwest, and that coal up there competes with Pennsylvania anthracite for domestic purposes.

Mr. Warrum: The defendants separately desire to object to the evidence now being given by the witness, and sought to

be introduced by the question propounded by plaintiffs counsel with reference to the competition of anthracite with bituminous coal, because the complaint recites that the anthracite coal is not in competition with the bituminous fields, and if the Court desires I will read the paragraph.

The Court: I had overlooked that if it is there.

Mr. Warrum: (Reading.) "That except for the anthracite coal mines in the State of Pennsylvania, practically the entire business of mining and shipping coal in the
1093 United States is done by what is known as bituminous mines, located in the State of Washington, Wyoming, Utah and Montana in the Northwest, Illinois, Ohio, Indiana and Michigan in the northern middle states; Iowa, Colorado, New Mexico, Kansas, Missouri, Oklahoma, Arkansas, Texas, Kentucky, Tennessee and Alabama in the middle and southern states, and Pennsylvania, Virginia, West Virginia and Maryland in eastern States; that each and every one of the bituminous mines in the several States above mentioned is engaged in or subject and liable to competition in the course of interstate trade from the mines in one or more of the other States above named, and nearly every one of said mines is subject to competition of the mines of each and every one of the several States above named in reaching or attempting to reach different markets of the United States in various industrial centers in different States through the course of interstate trade made possible by transportation of common carriers from one State to another."

The only construction of the exception with which the paragraph begins, is that the pleader intended as I contend.

The Court: Upon what theory is it offered, Mr. Drinker?

Mr. Drinker: It is merely to show the competitive conditions between the different coal in the country. I do not take it that paragraph states there is no competition between anthracite and bituminous coal.

The Court: Then, what does it state?

Mr. Drinker: Those mines do compete with the bituminous coal in all of the other states but it is not very important. However, I do not read that the way counsel does. "That except for the anthracite coal mines in the State of
1094 Pennsylvania, practically the entire business of mining and shipping coal in the United States is done by what is known as bituminous mines, located in the states of

Washington, Wyoming, Utah and Montana in the Northwest"—

The Court (interrupting): I got the rest of it.

Mr. Drinker: "That except for the anthracite coal mines in the State of Pennsylvania, practically the entire business of mining and shipping coal in the United States is done by what is knowns as bituminous mines."

The Court: You made no claim there in no competition with the anthracite.

1095 Mr. Drinker: But later on it reads, "that each and every one of the bituminous mines in the several states above mentioned is engaged in or subject and liable to competition in the course of interstate trade from the mines in one or more of the other States above named."

The Court: I doubt if it is reasonably subject to that construction, but I do not consider that construction important; I cannot see that it is immaterial.

Mr. Drinker: Then the next paragraph says that the mines of the plaintiffs are subject to the competition of the said mines and so forth.

The Court: I do not quite see your construction.

Mr. McDonough: I do not understand that to mean no competition.

The Court: You ought not to have stated it here if you did not mean it.

Mr. Drinker: We said that, if the anthracite mines or bituminous, but we do not say anything about the competition, "Except for the anthracite coal mines in the State of Pennsylvania practically the entire business of mining and shipping coal in the United States is done by what is known as bituminous mines, located in the states of Washington, Wyoming, Utah and Montana in the northwest, Illinois, Iowa, Indiana and Michigan in the northern middle state; Iowa, Colorado, New Mexico, Kansas, Missouri, Oklahoma, Arkansas, Texas, Kentucky, Tennessee and Alabama in the middle and southern states and Pennsylvania," and so forth. We say all of the bituminous mines are subject to the competition of all of the mines in the other states. It

is a strange construction to read bituminous mines
1096 when we do not say it.

The Court: I think it is broad enough to give it the construction contended for by the plaintiffs and I will overrule the objection.

To which ruling of the Court, the defendants, and each of them, then and there duly excepted and still except.

1097 Q. Proceed.

A. The smokeless coal from West Virginia is shipped by lake and by rail in the northwest, and in the northwest they come in competition with coal of similar character in Arkansas, and also the anthracite coal, in the same way, with the Arkansas coal, comes in competition with anthracite mines. They all three compete with each other; in the bituminous fields in Western Pennsylvania, it is shipped west by rail and by lake, but generally by lake to the head of the lakes, and when it gets to the head of the lakes, it is distributed throughout the Northwest. The bituminous coal mined in Ohio, Illinois, Indiana, Kentucky and West Virginia is shipped, all rail, and partially by lake and rail, to the same points in the Northwest, and in Illinois, and all of the coal in [thos] states compete with each other, in what you might call competitive territory west of Chicago and in Chicago. The coal mined in Western Kentucky comes in competition with coal mined in Illinois.

Q. In what market?

A. In the markets south of Western Kentucky. Now, the coal mined in Illinois comes in competition with the coal mined in Missouri and Kansas and Iowa, in the states of Missouri, Kansas, Nebraska and Iowa. The coal mined in Missouri comes in competition to some extent with the coal mined in Iowa, and also with coal mined in Kansas.

Q. In what markets,—state the markets in which it competes.

A. In the markets of Missouri, Kansas and Iowa. The coal mined in Arkansas comes in competition in the markets of Oklahoma, with slack coal produced in Oklahoma, that is a slack coal produced in Oklahoma, and with lump coal produced in Colorado. It comes in competition in the markets of Texas, with lump and slack coal produced in Okla-
1098 homa, and coal produced in Colorado and New Mexico. The coal mined in Arkansas comes in competition in the markets of Kansas and Missouri with the coal produced in Missouri and Kansas. It comes in competition in the state of Nebraska with coal produced in Illinois,

Kansas and Colorado. It comes in competition in Iowa with an anthracite coal, with smokeless coal from West Virginia, and with coal produced in Iowa. It comes in competition in Minnesota with anthracite coal and with West Virginia smokeless coal, and with coal produced in Illinois. Now, the coal produced in Oklahoma comes in competition in Oklahoma with coal produced in Colorado, and coal produced in New Mexico. The coal produced in Oklahoma comes in competition in Texas with coal produced in Colorado, produced in New Mexico, produced in Texas, both bituminous and lignite, with coal produced in Arkansas and with coal produced in Alabama, and with coal produced in West Virginia, shipped by ocean to Galveston and Port Arthur.

The coal produced in Texas comes in competition with coal produced in Oklahoma, Arkansas, Colorado and New Mexico.

The coal produced in Colorado comes in competition in Kansas with coal produced in Kansas, and it comes in competition in Nebraska with coal produced in Illinois. It comes in competition in Oklahoma with coal produced in Oklahoma and Arkansas.

It comes in competition in the state of Texas with coal produced in Texas, Oklahoma and Arkansas.

Coal produced in Missouri comes in competition with coal produced in Iowa, with coal produced in Kansas and with coal produced in Arkansas, and coal produced in Illinois.

The coal produced in Colorado comes in competition in Nebraska with coal produced in Iowa and Illinois, and in Kansas with coal produced in Illinois and Kansas.

1099 In Texas with coal produced in Texas, Oklahoma and Arkansas.

And coal produced in Wyoming comes in competition with coal produced in Montana.

Coal produced in Washington comes in competition with coal produced in British Columbia, Vancouver, and with coal produced in Montana.

I cannot offhand remember them,—almost every state directly or indirectly, I have given here the direct competition. Where any coal comes in direct competition with another, and I have not given them in full, because I cannot remember them offhand, all of them, but in addition to the di-

rect competition of coal, there is an indirect competition of coal.

Q. What do you mean by indirect competition?

A. Perhaps I can illustrate better. If there is a strike or a shutdown, or something that interferes with the production of coal in Pennsylvania and Ohio and Indiana and Illinois, which is known as the central competitive district, and I use them because, when they are shut down, they are frequently shut down at the same time. It results in West Virginia coal, which ordinarily would be shipped in some considerable quantity to the head of the lakes, and around into competition with our coal in the Northwest and Iowa, and it results in the West Virginia coal being confined to the nearby markets that are short of coal, such as Ohio, Indiana and Illinois, and in that way relieves us temporarily of the competition of West Virginia smokeless in the Northwestern States.

Q. And that condition applies to the other communities, as to the principle involved?

A. Yes, sir, that principle of indirect competition ap-
1100 plies throughout. It is like a row of blocks, if you knock over one block at the end of the row, they all react, and push each other along. I can go ahead, if it is desirable.

Q. That illustrates it. I think you have gone into that enough. If you have mentioned all of the principal fields of competition that you remember?

A. I think I have, but I did not prepare on that.

Q. Now, did these competitive conditions obtain, as the different fields have developed, from a period for the last, —I don't mean that,—but as each field was developed, the conditions that you have described attach to it, do they, or has there been any change in a general way between those conditions?

A. There are constant changes working on in one direction or another. As the cost of production in one field increases relative to the cost of production in another field, the markets and consequently the competition between the coals of those fields changes, and changes gradually. For instance, at one time coal was shipped from this field into Mexico, and came in competition in Mexico with coal produced in West Virginia and Pennsylvania, and chiefly in West Virginia, which was shipped by boat, steamship, and also came in competition with coal mined in Wales and England, coming the same way, but as the cost of production increased more per ton in this field, than it did in the com-

petitive fields, gradually this coal was forced backward by the competition out of Mexico, and out of Southern Texas, gradually restricting the market in that direction. Those sort of changes are always working. They work slowly, but very effectively; and from time to time new fields are developed in different states, that bring new factors
1101 into competition. For instance, in the last few years the coal fields of Eastern Kentucky was developed by the building of railroads into it, and the production of that field is now being felt in the markets, and the central states, by the coal mines in the central competitive states, and by the operators in West Virginia. But the changes are slow, they work slowly.

Q. Did the conditions that you have described apply in March, 1914? A. Yes, sir.

Q. Did the competition between these various fields, actual or potential, exist substantially as you have described it, from 1898 down to 1914?

A. Yes, sir, substantially.

Q. Now in March, 1914, before you began your operation open shop, what was the condition, just briefly, I don't want you to go into the details, but briefly what was the condition of the coal market, and what had been the developments of the condition of the coal market during the period antecedent to that,—very briefly?

A. In 1902 and 1903, the demand for coal in the Southwest country was very great. The country was developing rapidly, Texas, Oklahoma and Arkansas, to some extent, and railroads were being built, and the mileage of railroads was increasing rapidly, and towns were springing up, and the demnd was increasing faster than the supply. But about that time, I think it was in 1900, we found the first oil well down in Texas, and gradually, but not felt much in the coal business, until 1904 or 1905, I think, the oil became a factor in the competition, in the market for the sale of fuel, and in Texas oil replaced coal in a number of very important ways. The larger railroads in Texas, such as the Santa Fe and the Southern Pacific, and a number of others, in fact nearly all the railroads in Southern
1102 Texas, and some in Oklahoma, commenced burning oil, and they gradually, some of them, burned oil altogether, like the Santa Fe, and stopped the use of coal, and some burned oil in large part, like the Southern Pacific, which curtailed the use of coal very much, and which knocked out a market for a great many hundred tons of coal produced in this field and Oklahoma each year, and about the same time commenced the competition of natural gas,

which was then discovered in Oklahoma and Texas, and that was used for domestic fuel, and replaced coal in a great many towns and cities. And these factors depressed the coal business, and put more coal on the market to be sold than was wanted, and as a natural consequence prices were reduced; Frequently below the actual cost of production. There were periods every year, for two or three or four months, in say October, November and December, when the cold weather came on, and there was a particular demand for coal, that there would be a picking up in the business, and there was enough business to go around, to keep everybody busy, but those periods became shorter and shorter, and periods when there was not enough business to go around, and when coal was sold for less than cost, frequently became longer, and in about 1907 there was a general revival of business over the entire country. There was a [pic] up then in the coal business, and in 1908 it dropped again, and there were little revivals, but on the whole, on account of the competition of oil and gas, and on account of the increasing cost of production, the coal business in this part of the country was or gradually became depressed, so that not much money was made in the business, and a great deal was lost.

1103 Q. Then immediately prior to 1914, were the operators in this field, in a prosperous condition as a general rule, or were they not? Did they have a large margin of profit, or small one?

Mr. Warrum: The defendants separately object to that as calling for a conclusion.

The Court: I think that is true. Unless he shows that he had knowledge of what they were doing generally.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Q. Had any of the operators in this field gotten into financial difficulties, and bankruptcy proceedings, immediately before the year 1914?

Mr. Warrum: The defendants separately desire to object to the question, and the evidence sought to be adduced thereby, for the reason that it calls for the statement on the part of the witness as to specific cases of financial embarrassment of operators, and necessarily involving, on the part of the defendants, an inquiry into each specific case, and the cause for it.

The Court: Objection sustained.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Q. In this field, had the margin of profit to the operators, gone up or down in the years immediately preceding 1914, to you,—cut out to the operators, and to your company,—strike that question out.

I will frame it again. Now, immediately preceding 1914 had your margin of profit gone up or gone down?

A. Gone down.

Q. And to what principal factors in the increase of
1104 cost, or in the decrease of the sale from the coal was that attributable?

Mr. Warrum: The defendants desire to separately object to the question because it calls for a conclusion on the part of the witness.

The Court: A man can always give his conclusion relative to his own business, if he don't know anything about it, I don't know who would.

Objection overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

A. What was the question, again?

(Question read by Mr. Perkins, official stenographer: "And to what particular factors in the increase of the coal, or in the decrease of the sale from the coal, was that attributable?")

A. In the years immediately preceding 1914, it had been due to the increased cost of production. In the year 1913 the price of fuel oil had increased, and to that extent it removed the competition of it, or lessened the competition of fuel oil on the market, and the price of coal was somewhat higher than it had been, but the cost of production was greater.

Q. Did the decrease of the margin, the possible margin of profit, or increase in the margin of loss to your companies, during the years immediately preceding 1914, depend in any way on the increased or decreased demands of the Miners?

A. It did.

Q. In what way and to what extent?

A. Irregularities in working the mines.

Q. Well, did it increase or decrease?

A. It increased the cost,—added to the cost of production.

Q. I want to get another question for the record. During the years 1912 to 1914, had your competitors in the coal
1105 business in this immediate vicinity been successful in their operations, or had they,—now, don't answer this,—or had they been unsuccessful?

Mr. Warrum: The defendants separately desire to renew their objection made to the inquiry with regard to successful competitors, for the reason that it calls for an opinion and conclusion on the part of the witness as to the status of affairs of which he shows at this time he has no acquaintance, and involves an inquiry by the defendants into each particular instance.

The Court: Objection sustained.

To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Q. Now, Mr. Bache, I hand you a letter consisting of 12 pages, and will ask you to state,—marked exhibit, plaintiffs' Exhibit 38, and ask you to state what that is?
A. It is a letter dated Ft. Smith, Arkansas.
Q. Don't describe its contents in any way.

The Court: Let him give the date, that is proper.

A. (continuing). Ft. Smith, Arkansas, March 22nd, 1914.
Q. And is it signed by any one? A. Addressed,—
Q. Yes, go on.
A. Addressed to Mr. F. Bache, President Bache-Denman Coal Company, Ft. Smith, Arkansas.
Q. Is it signed by anyone at the end? A. No.
Q. Do you know whose writing that is?
A. John Cameron.

Mr. Warrum: I move to strike out the answer as not responsive.

The Court: Motion sustained.

1106 To which ruling of the court the plaintiffs, and each of them, then and there duly excepted and still except.

Q. Do you know whose handwriting that is? A. Yes, sir.
Q. Whose is it? A. John Cameron.
Q. Did you receive that letter in the course of the mails, or how? A. It was handed to me.
Q. By whom? A. Mr. Cameron.
Q. Did the figures in pencil at the upper right hand corner of the first page, 44-5, appear on the letter when you got it?
A. No.
Q. What are those figures?
A. They are the letter file number.
Q. Now, will you look through the letter and see whether anything else, that is in the letter now, that was not in it when you received it? A. No.

Q. Did the receipt of that letter by you, and the examination of the contents of it, have any influence upon your determination to open your mines open shop? A. It did.

Q. What influence did it have on you?

Mr. Warrum: He has already answered that question, and the defendants separately object to it.

The Court: Yes, I think he said it had an influence.

Mr. Drinker: I asked him what influence.

Q. Did that letter tend to influence your mine to open your mines open shop, or tended to dissuade you from it?

A. Tended to influence me to open the mines open shop.

Mr. Drinker: I offer in evidence the letter marked plaintiffs' Exhibit 38, J. A. P., and identified by the witness.

1107 Mr. Warrum: We have not read enough to make our objection,—

Mr. Drinker: I will withdraw the offer for the time being.

Q. Who was Mr. Cameron, to which you have just referred? A. Superintendent of the mines.

Q. What mines?

A. The Bache-Denman Coal mines in Arkansas.

Q. All the mines that you have described around Hartford?

A. Yes, sir.

Q. And how long did he occupy that position prior to March 22nd, 1914, the date of this letter?

A. About three months.

Mr. Drinker: Now, we offer this letter in evidence.

Mr. Warrum: The defendants separately object to the introduction in evidence of the letter marked Exhibit 38, for the reason that it appears from the testimony of the witness that it was written to him as President of the plaintiff company by a man named Cameron, superintendent of the company in March, 1914, and it is a self-serving declaration, and in no wise binding upon the defendants, and is not competent evidence against them, in the matters and issues involved in this controversy.

The Court: Without the court reading it, state the purpose of the offer.

Mr. Drinker: The purpose of the offer is to show that Mr. Bache determined to open his mine on an open shop basis, in an honest effort to reduce his cost of production, and that he was led to believe, by this and other investigation that he

made, that the only possible way to reduce his cost of production, was to operate on an open shop basis. It has
1108 been charged all the way through this litigation growing out of this thing, by the other side, that he was influenced by all sorts of ulterior motives in opening his mines this way. We want to show that the reason he gave here, as he stated it, was all. Under the rule as acknowledged by all the authorities, and the case I referred to the other day is one, and Mr. Wigmore states it very plain, that where one's good faith is [relevent], that you can show what his intention and good faith are, by what he said himself, and what other people told him, and it is offered solely to show that he was advised by Mr. Cameron as to the general state of affairs.

The Court: Is that the purport of the letter?

Mr. Drinker: Yes, sir, your Honor.

The Court: Objection overruled. I presume there will be an issue here as to whether or not he did this in good faith.

Mr. Warrum: I will try not to trespass,—

The Court: You are perfectly within your right.

Mr. Warrum: Now, in order to understand the theory of the court in admitting this, it is a question of Mr. Bache's good faith and purpose and intent in making the change down there, and the things that he did down there, and his intent in doing that, is an issue here?

The Court: Yes, sir; and if it is not an issue, counsel will inform me.

Mr. Warrum: And that the letter that was written by Mr. Cameron on March 22nd to him, is introduced for that purpose?

The Court: Yes, sir. It is received here in evidence
1109 solely on that issue. If that is not an issue here, I will exclude it.

Mr Warrum: I appreciate the ruling of the court and we will address ourselves to that subject.

Mr. Hull (reading):

"Ft. Smith, Arkansas, March 22nd, 1914.

"Mr. F. Bache, President Bache-Denman Coal Company,
"Ft. Smith, Arkansas.

"Dear Sir:

"The cost of mining coal at the different mines of your company has increased to such an extent during the past ten years

that it is imperative, in my judgment, that a radical change be made both in the scale of wages paid for mining, and in the class of labor performed.

"At the present time the cost of production equals or exceeds the gross revenue per ton realized on the coal, and it is evident to me that a continuation of the present policy of the company with reference to wages paid, conditions of employment and the class of labor employed means a continued increase in the cost of production, and in a greater ratio than that which has obtained during the past ten years. This condition, if permitted to grow, can result only in the final indefinite suspension of operations at the mines, and the lying idle of a property in which a large sum of money has been invested.

"In order that a remedy may be suggested to prevent the suspension of operation at the mines of the company let us review the causes that have forced upon us an approximate increase in the cost per ton of mining coal, of sixty per cent in the last 10 years.

"Prior to the year 1903 the mines in the southwestern
1110 district of which Arkansas and Oklahoma are a part, were operated principally on the open shop or non-union basis and up to that time the principal items that entered into the cost of producing coal at the mines were:

"1st. Mining rate per ton of coal.

"2nd. Yardage and narrow work.

"3rd. Company labor.

"The rates of payment covering the above items of expense have by contract with the United Mine Workers of America, from time to time increased until in the aggregate it has amounted to 40 per cent.

"In addition to this increase from additions to the three items referred to, the miners through their local organizations forces payment from the company for work which they have designated as dead work, and which was always prior to their advent into the field considered as being paid for in the mining rate for digging a ton of coal. Some of the items that has entered into this are pay for bone and other impurities, rolls, frozen coal, etc. etc. The increase from these and other conditions which they have forced, amounts to at least 20 per cent or during the past 10 years they have increased the cost of production in the aggregate at least sixty per cent.

"In other words, if we would take the mine No. 4, Prairie Creek, as an example, we could with the same prices, conditions of employment, etc., that were in effect at that time expect a cost of production of one dollar per ton as against a cost of $1.60 at the present time.

"Any attempt at the present time to reduce expenses, drive new work, change system of mining, etc., is met with
1111 the most stubborn resistance possible, in fact their demands in every respect must be conceded, or the entire property is called out on strike. They not only dictate prices for all classes of new work, but through their pit committee control the hiring of employes and will permit the discharge of none, which means that discipline in any respect and for any fault is successfully resisted in all cases.

"I am firmly of the opinion that a continuation of business relations with them means a strengthening of their power over us if that is possible and to remedy these evils it seems evident to me that the first thing necessary is to rid the management of the interference of the local unions through their pit committees or in other words to operate the mines on a non-union basis.

"To do this means a bitter fight, but in my opinion it can be accomplished by proper organization.

"If this is successfully accomplished it would then permit us to pay for all work on a basis that would materially lessen the cost of production.

"For example the miner who we will pay in mine No. 4 mines, a ton of coal is paid for it at the rate of 68 cents per ton. In mining this coal he does various classes of labor, viz:—the timbering and taking care of his place, the placing of shots, etc., which could properly be classed as skilled labor. He also loads the coal into the mine cars after it is shot but this could not be possibly termed skilled labor, in fact the most common kind of labor could perform as much of it as the most skilled miner. In other words, the miner is paid for all the labor he performs, both skilled and
1112 unskilled at the maximum pay for skilled labor.

"On a non-union basis this could be remedied and skilled men could be employed to do only such work as skilled labor would be required and be paid for on this basis which the shoveling of coal, requiring the most common kind of labor, could be paid for accordingly."

Mr. Hull: There is an insert here, I think I should read it as the writer apparently intended it to be read.

Mr. Warrum: That involves a construction of the court and counsel, it should be read just as it is written.

The Court: Yes, sir.

Mr. Hull: There is a circle with a figure one, at this point, and stars, or cross marks, to indicate something omitted, no, I withdraw that. There are some crosses on this line. It don't make sense to read the next page.

The Court: We cant help that.

Mr. Hull: It says, "See bottom of page 9."

The Court: Follow instructions.

Mr. Hull: That is the place that I should have seen when I came to it. That was on the bottom of page 9.

The Court: The court dont understand the situation well enough to understand what should be done.

(Counsel hands the court the exhibit referred to.)

The Court: It is very evident that the paragraph at the bottom of page 9,—that the sentence at the bottom of page 9, and the page that is not numbered, is a portion of page 9,—page 9 and the page that is not numbered and then page 10, so that that page that is not numbered is the insert
1113 that should be read. It appears so upon its face.

Mr. Hull (reading): "The physical conditions in mine No. 4 are such that the employment of unskilled labor should be a matter of little concern, for here the thickness of the veins, the sandstone roof, light pitch and absence of gas all combine to make almost ideal conditions for the employment of labor not accustomed to coal mines.

"If this system should be applied to one entry, for example in mine No. 4, we could reasonably expect the following results on the basis of a production from same of 100 tons of coal per shift:—

"1 foreman	$4.00
1 gasman	$3.50
3 drivers, $2.84	$8.52
3 timber men, $3.00	$9.00
2 bosses, $3.50	$7.00
10 loaders, $2.25	$22.50
3 topmen, $2.25	$6.75

3 firemen, $2.25	$6.75
1 blacksmith	$3.50
1 engineer	$4.00
2 cagers, $2.84	$5.68
Powder	$8.00
Supplies	$15.00
	$104.20

"Or a cost of $1.042 per ton. This should be extended to every entry in the mine as rapidly as possible.

"I know you appreciate the fact that the success of this plans means the utter annihilation of the union so far as our mines are concerned but with this accomplished I see
1114 nothing in the way of realizing the above results."

Q. (Mr. Drinker) Mr. Bache, in March, 1914, were there any other mines in Sebastian County operating on a non-union basis? A. No, sir.

Q. When you sent the men down to the mines about the 1st of April, did you give them any instructions?

Mr. Warrum: If the court please, we don't know what the question means, by "men".

Q. I will ask it over again. When you sent down to the mines, about the 1st of April, 1914, the men whose names you gave yesterday, and who you employed to go down there, Mr. Hackett, Mr. Cameron, Mr. Argo, Mr. Barnes, and the other men, did you give them any instructions as to what their duties were down there, yes or no?

A. Yes.

Q. What were the instructions that you gave?

Mr. Warrum: The defendants would like to object to the question, or the evidence sought to be adduced by this question, on the ground that it is not binding upon the defendants, and hearsay, and dosen't throw any light upon the controversy as far as the defendants are concerned.

The Court: Objection overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

Q. What were those instructions?

A. They were instructed to proceed with the operation of the mine, and told that in case of any attacks being made on them by members of the union, that they were not to com-

mit violence themselves, because I feared that in case they did, and in case there was a fight, and anybody on the other
1115 side was injured, as well as people on our side, that our people would be arrested and tried and convicted,—

Mr. Warrum: If the court please, I object,—

The Court: Yes, I don't think that is proper.

Q. Was that part of the instructions that you gave them,— did you tell them those things?

The Court: Don't make any difference if it was, it is not material here.

Mr. Drinker: I want to show that he knew, and that he told those people, that all the local officers were absolutely against him, and that is his reason for the specific attempt,—

The Court: What he thought is not material.

Mr. Drinker Of course not, but what he told them.

The Court: No, not what he thought and told them. Nothing that he told them, except as to the operation of the mines, and how they should conduct themselves, but not what he thought about it.

Q. (Mr. Drinker) Proceed, under that admonition of the court — exception to us, of course.
A. I told them not to commit any violence.
Q. Did you give any further instructions to any of them as to their duties? A. Yes, I directed, in case of violence, the names of the parties participating in it should if possible be noted.
Q. Now, I hand you the paper marked plaintiffs' Exhibit 39, and ask you to state what that paper is? A. That is a copy of a letter written by me, to be sent to parties living in houses belonging to the company, and who were not any longer working for us, and where we desired possession of the houses.
1116 Q. What is the date of the letter?
A. The letter is dated May, 1914.
Q. Any other date? A. No other date.
Q. Were letters in that form sent out to any persons by you, during May, 1914? A. The letters were sent out, I don't know whether they were sent out by me or not, but this letter was dictated by me.
Q. Do you know that letters were sent out in that form?
A. Yes, sir, they were sent out in that form.

Q. You know that? A. Yes, sir.
Q. And to whom were they sent out? A. To people whose houses we wanted, I don't recall their names.
Q. How many of them.
A. I don't recall the number, quite a number.
Q. Within a reasonable limit, how many, more than ten?
A. Something of that kind, possibly.
Q. State it as near as you can, the number?
A. About ten.

Mr. Drinker: We offer this paper in evidence marked Exhibit 39.

The Court: How was it sent, by mail or how?

Q. (Mr. Drinker) How were those letters sent?
A. I don't know.
Q. You don't know whether they were mailed or sent by messenger? A. I don't know, they might have been sent, they were probably by messenger.
Q. Do you know by what happened afterwards or in any other way whether those letters were received by the persons to whom they were addressed?

1117 Mr. Warrum: We desire to object to the offer,—

Mr. Drinker: I will withdraw the offer for the present.

Q. Do you know whether those letters were received?
A. I am trying to refresh my memory, and it is difficult to do. No, I don't remember.

Mr. Drinker: I will withdraw the offer for the present.

Q. Now, after the events on the 6th of April, did you make,— what attempt did you make, if any, to secure United States Marshals to guard your property?

The Court: Gentlemen, I had forgotten you again. We will take our usual recess.

(A recess was here taken of five minutes.)

Q. (Mr. Drinker) Will you read the last question?

(Question read by Mr. Perkins, official stenographer, as follows: What attempt, if any, did you make to secure United States Marshals to guard your property?")

Mr. Warrum: I believe the defendants will object,—

Mr. Perkins: I didn't read it all. (Reading) "Now after the events on the 6th of April, did you make,— what attempt

did you make, if any, to secure United States Marshals to guard your property?''

Mr. Warrum We object to it as an effort to prove something after the suit was instituted.

Mr. Drinker: This was all before.

The Court: Objection overruled.

To which ruling of the court the defendants, and each of them, then and there duly excepted and still except.

A. I don't recall whether I made any effort to get the protection of marshals after the temporary restraining order was issued. As soon as the injunction was made permanent, which was I think about May 9th, in pursuance
1118 as I understood it of the order of the court, we asked that deputy marshals be placed at the property. We didn't get them. We reported,—

Q. (Interrupting) Did the marshal decline to appoint deputies at that time? A. He did.

Q. On what ground?

A. That he had to have authority from the Department of Justice.

Q. At Washington? A. At Washington.

Q. Then what did you do in that connection?

A. We continued to urge him to let us have the marshals and gave him from time statements of acts of violence and intimidation and interference with our operation in the hope that he would place marshals there. He finally, in the latter part of May, told me that he would place 50 deputy marshals at the mines, and they were placed at the mines.

Q. When? A. 50.

Q. When? A. In the early part of June.

Q. And how long did they stay there?

A. They remained at the mines bout three days.

The Court This is all in 1914?

Mr. Drinker: Yes, sir, your Honor.

Q. Was this all in 1914? A. This was all in 1914.

Q. And what happened to them after three days?

A. They were withdrawn from the mines and came back to Ft. Smith.

Q. And what did you do in that connection. A. As soon as I was notified that they were to be withdrawn, I stated that I wanted them to be left there until I had an opportunity to get to Washington, and with counsel, to see if the

order revoking the appointment of marshals, or revok-
1119 ing the appointment of marshals could not be with-
drawn so that the 50 marshals would remain, and that
1120 day I, accompanied by counsel, left for Washington.
Q. Who went with you? A. Mr. McDonough.
Q. What happened, if anything, as a result of following that visit to Washington? A. We could not induce the Department to leave the fifty marshals there, but they said they would have,—

Mr. Warrum: (interrupting): This was a conversation with some party had and out of the presence of the defendants, and the defendants separately object to it.

The Court: Yes, and the conversation itself that resulted can be stated.

To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

Q. As a result of your visit to Washington, were any United States Marsals sent down to the property?
A. Three marshals were sent down,—not to the property but to take up their residence in the vicinity of the property.
Q. How long did they stay there?
A. They stayed there until July 15th.
Q. Did you see them down there? A. Yes.
Q. Where did they live? A. They lived right at the mine — in the tents belonging to the company.
Q. Did they tell you at the time why they were living at that place instead of anywhere else?

Mr. Warrum: To which the defendants separately object, if your Honor please, for the reason it calls for a conversation.

The Court: The objection is overruled as to the question. I think it is competent.

To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

1121 A. Yes.
Q. What did they give you as the reason they were living at the company property rather than anywhere else?

Mr. Warrum: The defendants separately object to this, because this obviously calls for a statement of a conversation.

The Court: I am wondering whether this comes within the rule of law placing the status there, and the information

on knowledge upon which further acts were predicated by those men.

Mr. Drinker: It is a part of the resgestae; it is the reason they give for being at a certain place instead of at another place. It is important why they were there or somewhere else. The reasons they told him are competent to prove that.

The Court: Is it claimed by the plaintiffs here that the reasons given by these men involves this circumstances in what they did? In what they did after that?

Mr. Drinker: No, but the reasons they give are important characterizing their residence at that place.

The Court: Not necessarily, because the thing that transpired there because they lived there, if anything, would be competent, but their version of it would not.

You do not prove the thing that occurred, why would what they said about it be proper?

Mr. Drinker: I see that; I withdraw that question

Q. Now, Mr. Bache, I hand you two sheets of paper which have been marked Plaintiffs Exhibit No. 40, and ask you what they are. A. It is a letter dated May 23, 1914.

Mr. Warrum: If the Court please, I understood the
1122 counsel to have two exhibits marked, and he now speaks of one, and it is impossible for us to tell exactly what this is he is referring to.

Mr. Drinker: Read the question please, Mr. Stenographer.

(Stenographer Perkins reading: "I hand you two sheets marked Exhibit 40 and ask you what they are.")

A. It is the first and second page of a letter dated May 23, 1914 — it is a copy of a letter dated May 23, 1914, addressed "United States Marshal, Western District of Arkansas, Ft. Smith."

Q. Did you sign the original copy of that letter?

A. Yes.

Q. What did you do with it?

A. I mailed it to the Marshal.

Q. When did you mail that to the Marshal? A. I don't remember, it was doubtless mailed the day it was dated.

Q. On or about the date it was dated? A. Yes.

Q. I hand you a paper marked Plaintiffs Exhibit No. 41 and ask you to state what that is.

A. It is a letter dated May 23, 1914, addressed to John S. Cameron, superintendent of Mines, Midland, Arkansas.

Q. Did you sign the original of that letter? A. Yes.

Q. What did you do with it? A. Mailed it or sent it to Mr. Cameron.

Q. On or about the date of it?

A. Yes, on or about the date of it.

Q. The paper marked Plaintiffs Exhibit No. 40 has on it some figures in pencil, were they on the letters?

A. They are file numbers.

Q. The same is true as to Exhibit No. 41?

A. Yes, sir, it is true as to both.

1123 Was there any enclosure in the letter that you state you sent to the United States Marshal, Plaintiffs Exhibit No. 40, and if so, what was it?

A. To the best of my recollection, the letter to the Marshal enclosed a copy of the letter to Mr. Cameron.

Q. That is the letter, Exhibit No. 40 as an enclosure, a copy of the letter Exhibit No. 41?

A. Yes, just as I can remember it.

Mr. Drinker: I am not going to offer it now. I am not going to offer them until in connection with the other witnesses. This is just to identify them.

Q. Mr. Bache, in connection with the operation of the properties down there, between April 4th and July 17th, did you have any difficulty in getting men to work for you down there, and if so, at what periods?

A. We had difficulty getting men to make what we call break, the start.

Q. Did you have difficulties?

A. We had difficulties again after they were driven off on April 6.

Q. For how long? A. We had difficulty —

Q. (Interrupting.) Answer the question. You were doing so no doubt.

A. We had some difficulty for some days or weeks.

Q. And after this "some days or weeks"; define that period a little more exactly, Mr. Bache, "some days or weeks".

A. We had difficulty until the injunction was made permanent.

Q. And that was about the 9th of May?

A. Yes, that was about the 9th of May.

Q. Then after that did you have any difficulty in getting men? A. We always after that got many more men than we could use.

1124 Q. Which Judge made the injunction permanent?
A. Youmans of this city.

Q. After the events of July 17th, did you have any difficulty in getting men?

Mr. Warrum: To which the defendants separately object, to the introduction of any evidence relating to the difficulties that this witness had as president of the plaintiff company in securing men after July 7th, after the injuries complained of for which damages are sought in this action.

The Court: I presume they regard that as a part of the damages — the objection is overruled.

To which ruling of the Court, the defendants, and each of them, then and there duly excepted and still except.

Mr. Drinker: Mr. Stenographer, read the question.

(Stenographer Perkins reading: "After the event of July 17th did you have any difficulty in getting men?

Q. Up to September 1914.
A. After July 17th there was the greatest difficulty in getting men again until deputies were appointed again.
Q. When was that? A. That was about October 26th.
Q And did you have any difficulty in getting men?

Mr. Warrum: If the Court please, the defendants separately object to the introduction of testimony concerning the ease or difficulty with which this plaintiff, the president of the plaintiff corporation, and I believe receiver had in securing men after the institution of this suit; and for the further reason that counsel in his opening statement alleges that the total destruction of this property occurred on July 17th, and there could be no question involved thereafter.

1125 The Court: The objection is overruled. I assume the plaintiffs may claim this throws light on the condition in which they were left.

Mr. Drinker: Exactly.

The Court: The status after this alleged action on the part of the defendants. The objection is overruled.

To which ruling of the Court, the defendants' and each of them, then and there duly excepted and still except.

Q. Answer the question, Mr. Bache.
A. Yes, after the men were attacked and the houses were burned up on October 28th, and the marshals driven off, we had great difficulty, it was impossible to get men until troops came.
Q. When did the troops come? A. In November.
Q. About what time in November?
A. The early part of November.

Mr. Warrum: The defendants' counsel would like to object; the answer was given so quickly I could not make an objection.

The Court: The answer is stricken out.

Mr. Warrum: The defendants separately object to any evidence relating to facts that occurred after the institution of this suit, and especially the establishment of Federal troops.

The Court: Objection overruled.

To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

A. I think that is incorrect, the answer I gave; I think the troops came in the latter part of November.
Q. What troops were they? A. United States Cavalry.
Q. How many were there? A. Four troops.
1126 Q. Where did they go to, where did they locate?
A. They located about three thousand feet from Mine No. 4, near Mine No. 3.
Q. How long did they stay there?
A. Until into the early part of the year, 1915; I do not recall the date of their going.

Mr. Drinker: You may cross-examine.

Cross-Examination

By Mr. Covington:
Q. When did you go with the Choctaw, Oklahoma & Gulf Railroad Company? A. I did not go with them.
Q. Were you ever at any time in their employ?
A. No.
Q. Did you have any connection with that railroad company? A. Yes.
Q. What was it?
A. They operated a number of mines owned either directly by that railroad or one of its sub-sidiaries, I am not quite clear, in 1898 to about 1902 or 1903.
Q. Where was those mines located?

A. At Alderson and Hartshorne, Oklahoma.

Q. Did you operate them under lease or were you conducting them for the railroad at a stipulated price per ton?

A. We operated them under contract of lease.

Q. Was it a lease or was it a contract to produce coal for the railroad company and the railroad company paid you a stipulated sum per ton for production?

A. There were two or three or four different contracts at different times between us and the railroad company, and I cannot answer your question for that reason, right off.

Q. You stated on your direct examination yester-
1127 day, that about 1900, you entered into additional contracts with the Choctaw, Oklahoma & Gulf Railroad, to operate all of the mines of that road, which included the mines at Alderson? A. Yes.

Q. Is that correct? A. That is correct.

Q. Your contract with the railroad company to operate the Alderson mine, was that a lease contract, or was it operated by you for a specific amount per ton produced by you?

A. The first contract we had there provided that we would mine the coal and put it on the cars for the railroad, and they would pay us so many dollars and cents per ton for the coal put on the cars. Later we had another contract with the railroad company.

Q. I am speaking now of the first contract.

A. That is the first contract.

Q. Well, let us get through with it. A. All right.

Q. You operated them for so much a ton F. O. B. cars. Is that correct? A. Yes.

Q. Did you equip the mine?

A. The mine I think was already equipped. It was already equipped, but I think later on we opened up an additional mine known as No. 15, and I do not recall whether we equipped it or they equipped it.

Q. Is it not a fact, Mr. Bache, that the railroad company equipped all of the mines you had over there and paid for their entire equipment? A. No.

Q. And weren't you there as rather a superintendent under your contract conducting the mines for them?

A. Not at all.

Q. To be paid a stipulated sum?

A. No, we were not acting for them as superintendent at any time.

1128 Q. Under what name was your contract taken?

A. My recollection is the first contract was taken in the name of the Kali-Inla Coal Company.

Q. That I believe was a West Virginia corporation?
A. Yes.
Q. What was the life of your contract to operate the Alderson mines?
A. The contract I am now speaking of, I think lasted about eighteen months.
Q. Eighteen months? A. Yes.
Q. Kali-Inla Company was organized September 26, 1898, was it not?
A. I do not know, it was about that time.
Q. I hand you the certificate of the Secretary of State to the articles of incorporation, the Secretary of State of West Virginia, and ask you to examine it and state if that is the same corporation you refer to as the Kali-Inla mine.
A. The Kali-Inla Coal Company?
Q. Yes.
A. Yes, sir, that looks very much like it, that is it no doubt.

Mr. Covington: I offer this as an exhibit to the testimony of the witness.

The Stenographer: It is Defendants Exhibit No. 1.

Mr. Drinker: I think there are four or five of defendants exhibits already in.

Mr. Warrum: We will have it assigned a number at the noon hour?

The Court: Do that, gentlemen.

Mr. Covington: I see the confusion that will ensue.

The Court: Very well, proceed.

Mr. Drinker: May I see the document introduced by counsel?

Mr. Covington: Yes, here it is.

1129 (The document last above introduced in evidence is handed to Mr. Drinker.)

Mr. Drinker: We have no objection.

The Court: It will be considered as read, if you do not care to read it, Mr. Covington, or you may read such portions of it as you like.

Mr. Covington: I have offered it in evidence.

The Court: Yes, and it may be considered as read.

The document so introduced and referred to by defendants counsel is as follows:

"State of West Virginia

Certificate of Incorporation.

I, Wm. M. O. Dawson, Secretary of State of the State of West Virginia, do hereby certify that an Agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in the words and figures following:

The undersigned agree to become a corporation by name of

The Kali-Inla Coal Company

for the following purposes, viz:—to mine, ship and sell coal; to manufacture, ship and sell coke; to manufacture into salable products and commodities any and all by-products of coal and coke and the said products and commodities to sell and dispose of in any market; to quarry, to dig, mine and bore for iron, fire clay, stone, cement-rock, water, gas, oil, bitumen, asphalt, and salt and the same to refine and manufacture for sale, or to sell in crude form; to cut, log and saw timber, to manufacture the same into salable product of any kind and the same to sell in any market; to equip, maintain and operate plants for the generation and transmission of electricity and such electricity to use or sell for profit for any purpose; to construct roadways, tramways, water courses, reservoirs and gas, oil, compressed air and water pipe lines, and to make fixed charges for the use of the same and dispose of said products in any market, and to equip, maintain and conduct a slaughter house and meat market and the product thereof to sell and dispose of in any market; to equip, maintain and conduct cold storage warehouses and to buy, sell, barter and exchange any and all commodities which may be stored therein; to purchase any and all wares, commodities, goods, merchandise, live-stock and personal property of every nature and the same to sell again for profit; to own, hold, lease and otherwise acquire real estate, to encumber and to improve the same, and to sell and otherwise dispose of such real estate, in the Indian Territory in accordance with the laws thereof; to construct, maintain and operate any and all machinery, appliances and apparatus, stores, commissaries, dwelling houses, and buildings of every sort which may be necessary or convenient for the conduct of any branch of its business; to guarantee the payment of

bonds of other incorporated companies, and to acquire and hold by purchase or otherwise the stock and bonds of other incorporated companies.

The said corporation shall keep its principal office at Philadelphia, in the County of Philadelphia, State of Pennsylvania, and is to expire on the tenth day of September 1948, and for the purpose of forming such corporation we have subscribed the sum of Six thousand dollars ($6,000.00) to the capital thereof, and have paid in on said subscriptions the sum of Six Hundred dollars ($600) and desire the privilege of increasing the said capital by the sale
1131 of additional shares from time to time, to Sixty thousand ($60,000) in all.

The capital so subscribed is divided into shares of One hundred ($100) each, which are held by the undersigned respectively as follows: That is to say by

Heber Denman, Windber, Pennsylvania 30 shares

Franklin Bache, Philadelphia, Penna, 27 shares.

Henrietta M. Bache, Philadelphia, Penna 1 share

Nannie T. Bache, Philadelphia, Penna. 1 share

Margaret H. Bache, Philadelphia, Penna. 1 share

And the capital to be hereafter sold is to be divided into shares of like amount.

Given under our hands this tenth day of September, 1898.

HEBER DENMAN
FRANKLIN BACHE
HENRIETTA M. BACHE
NANNIE T. BACHE
MARGARET H. BACHE

Wherefore, The corporators named in the said Agreement and who have signed the same and their successors and assigns, are hereby declared to be from this date until the Tenth day of September Nineteen Hundred and Forty Eight a Corporation by the name for the purposes set forth in said agreement.

Given under my hand and the Great Seal of the said State, at the City of Charleston, this Twenty-Sixth day of September, Eighteen Hundred and Ninety Eight.

(Seal)

WM. M. O. DAWSON,
Secretary of State.

(Certificate under section 906 revised statutes of the United States.)

United States of America,
1132 State of West Virginia
Office of Secretary of State

I, Houston G. Young, Secretary of State of the State of West Virginia, being the officer who, under the constitution and laws of said State, is authorized to issue certificates of incorporation of all companies incorporated under the laws thereof, and being the officer authorized to issue certificates certifying changes in and amendments to such certificates of incorporation, and being the officer who is the keeper of all the records and papers relating to the creation of such incorporated companies and of changes in and amendments to said certificates of incorporation, including the powers of attorney of such incorporated companies, appointing a resident agent or attorney in said State, and of the reports of such incorporated companies, and being the officer authorized to authenticate exemplifications of the same, do hereby certify that the foregoing and annexed instrument is an exemplified copy, carefully compared by me with the original record now in my official custody as said Secretary of State, and found to be a true and correct copy of the Certificate of Incorporation of

THE KALI-INLA COAL COMPANY

dated the 26th day of September, 1898, and recorded in the records of Corporations of my said office; and that said exemplification is in due form and made by me as the proper officer, and is entitled to have full faith and credit given it in every court and office within the United States.

In Testimony Whereof, I have hereunto attached my official signature and the Great Seal of the State of West Virginia, at the Capitol in the City of Charleston,
1133 this 22nd day of September, 1917.

(Signed) HOUSTON G. YOUNG,
(Seal)" Secretary of State.

Q. I believe you owned twenty-seven shares of the capital stock of that corporation?

A. If it says so there, it is probably true. I do not recall.

Q. Do you own them now? A. No.

Q. Do you own any now? A. No.

Q. When did you dispose of that stock?

A. Oh, in 1912 or 1913 or 1910, or somewhere along there. I do not recall.

Q. To whom? A. To the Bache-Denman Coal Company.

Q. To the Bache-Denman Coal Company? A. Yes.

Q. That is the Arkansas holding company, I believe, which you referred to in your examination yesterday?

A. Yes.

A. I see that Henrietta M. Bache owned one share; who is she? A. My mother.

Q. And Nannie T. Bache, one share; who is she?

A. My wife.

Q. And Margaret H. Bache of Philadelphia, and all of these are of Philadelphia, one share; who is she?

A. My sister.

Q. And Heber Denman thirty shares. A. Yes.

Q. Does your mother still own that one share?

A. I think not. I don't know. I am almost sure she does not.

Q. Does your wife still own the one share?

A. The same answer.

Q. Does Margaret H. Bache own one

A. The same answer. I am very confident they do not.

Q. And Nannie T. Bache, that is your wife, I believe you said. A. Yes.

Q. Does Mr. Denman still own his stock in that corporation?

1134 A. No.

Q. Did that go in with the Bache-Denman Company, too?

Mr. Drinker: I do not think the witness finished; he started to say something.

The Court: It does not make any difference what he started to say. He had finished his answer. Proceed, Mr. Covington.

Q. Did Mr. Denman transfer his thirty shares of stock to the Bache-Denman Company, the Arkansas holding corporation? A. I think so.

Q. In fact, the Bache-Denman Coal Company owned all that stock, did it not? A. It owned seventy per cent of it.

Q. What did you do with the other thirty per cent?

A. Mr. J. T. Jackson owns thirty per cent of it.

Q. He is the president of the company, Mr. J. T. Jackson?

A. Yes.

Q. You are a director in that company now? A. No.

Q. When did you resign? A. Two or three years ago.

Q. When? A. Two or three years ago.
Q. Two or three years ago? A. Yes.
Q. Can you give the exact date on which you resigned as director of the company?
A. No, I do not think I can, but I can in a day or two ascertain, I expect.
Q. Are you consulting engineer for the company?
A. Yes.
Q. What are your duties?
A. To advise the president from time to time as to the employment of men and the laying out of mines and putting in improvements.
Q. The president? A. Yes.
Q. How often have you visited the mine in the last two years?
A. None at all, I have not been there since 19—
1135 Q. Who is the engineer?
A. The engineer who makes the surveys over there is a man employed by Mr. Lewis of this city who is a mine surveyor.
Q. Who is the treasurer?
A. I do not know whether Mr. C. H. Finley is treasurer or Russell Duane; I think Mr. Finley is.
Q. Does your private lawyer hold any official position in that company, your attorney in Philadelphia?
A. Will you make your question more specific, Mr. Covington? I do not know what you mean by "my private lawyer".
Q. Isn't your private lawyer in Philadelphia Secretary of the Kali-Inla Coal Company?
A. The treasurer of the company is Russell Duane, who has acted as my attorney at different times.
Q. Does he own any stock in it?
A. I do not think he does, but if so, it is only one share.
Q. In fact, he does not own any share at all, does he, Mr. Bache?
A. The statement will have to go as I gave it, I am giving you what I know about it.
Q. Does the Bache-Denman Coal Company still own the stock of the Kali-Inla Coal Company? A. No.
Q. Who has got the stock?
A. The Kali-Inla Coal Company owns, has bought its own stock. It is difficult for me to answer right off, because I do not know just the legal bearing of those things. The stock of the Kali-Inla Coal Company is in the physical possession of the creditors of the Kali-Inla Company. The equity in the stock of the Kali-Inla Coal Company is now in the Kali-Inla Coal Company, seventy per cent.

Q. What do you mean by "physical possession"?
A. I mean to say that the seventy per cent of the stock of the Kali-Inla Coal Company which was owned by the
1136 Bache-Denman Comapny was put up as a part of the collateral on a loan to the Kali-Inla Coal Company to the Bache-Denman Company.
Q. Put up to the Bache-Denman Coal Company?
A. It was put up by the Bache-Denman Company on a loan by the Bache-Denman Company.
Q. How much of the stock of the Kali-Inla Coal Company is put up with the Bache-Denman Company as collateral?
A. Seventy per cent of it.

The Court: The court does not understand this from the answers given. By or to the Bache-Denman Coal Company?

Mr. Covington: To, as I understand it.

The Court: No, I do not understand it that way.

Q. Was the loan made to the Kali-Inla Coal Company by the Bache-Denman Company?
A. The Kali-Inla Coal Company itself borrowed some money and as collateral,—the Bache-Denman Coal Company owed the Kali-Inla Coal Company some money and gave the Kali-Inla Coal Company its note secured amongst other things with the seventy per cent of the stock of the Kali-Inla Coal Company, which the Bache-Denman Coal Company owned. Then the Kali-Inla Coal Company borrowed some money and as collateral in part gave the note to the Kali-Inla Coal Company of the Bache-Denman Company carrying the Kali-Inla Coal Company stock.
Q. Who did they give it to?
A. To the person from whom the Kali-Inla Company borrowed the money.
Q. From whom did the Kali-Inla Coal Company borrow the money?
A. All the stock was put up with a man named Bryan; as trustee.
Q. All of the stock of the Bache-Denman Company
1137 was transferred to Bryan as trustee to secure that loan?
A. Yes.
Q. When was that done? A. In the spring of 1914.
Q. On the 22nd day of April?
A. It might very well be about that time.
Q. How big was the note of the Bache-Denman Company they executed to the Kali-Inla Company?

A. I do not recall, but I think it was about fifty-five thousand dollars.

Q. Was that for money received from the Kali-Inla Coal Company? A. Yes.

Q. When? A. At various times.

Q. Covering what period?

A. Oh, covering a period of many years.

Q. Approximately how long?

A. From 1906 on, I should say, Mr. Covington.

Q. From 1906 on up?

A. You understand I am trying to give you the information as far as I can and I may make some pretty wide stabs at the exact dates.

Q. Do you keep any books of any of those concerns that are plaintiffs here, or of the Kali-Inla Company?

A. Yes, books were kept.

Q. Where are they? A. In the hands of the receiver.

Q. C. H. Finley? A. Yes.

Q. Can you get them?

A. I do not know whether I can get them or not, I am not the receiver. I do not suppose I am the person to ask that.

Q. That was old debts of the Bache-Denman Coal Company to the Kali-Inla Coal Company in the nature of book accounts?

A. What do you mean by "book accounts"? I do not understand exactly.

Q. Bills payable or notes?

1138 A. Yes, bills payable and notes and accounts.

Q. Running over a period from 1906 to 1914, a period of eight years?

A. Yes. And now, I say I want to give you the information as accurately as I can. I do not know that the Bache-Denman Company was even organized in 1906; but it was over a period of years.

Q. Well, on the 22nd day of April, 1914, you executed another note to the Kali-Inla Coal Company, didn't you, by the Bache-Denman Company, signed by you as its president, for twenty-eight thousand dollars?

A. Is that the Bache-Denman or the Bache and Denman?

Q. The Bache and Denman Coal Company? A. Yes.

Q. On the same day the Bache-Denman Company executed a note to the Kali-Inla Coal Company for seventy-five thousand dollars? A. Yes.

Q. On the 22nd of April, 1914.

A. I think so; I cannot remember all of the figures exactly. It was a large transaction.

Q. On the same date, April 22, 1914, a note due and payable one year after date, at ten per cent, was executed by the Coro-

nado Coal Company, plaintiff in this case, for twenty-seven thousand dollars to the Kali-Inla Coal Company?

A. I suppose that is true.

Q Executed by you, was it not, Mr. Bache, as president of that company? A. Yes.

Q. What was that for? A. For money loaned.

Q. When? A. At various times.

Q. To whom? A. To the Coronado Coal Company.

Q. By whom?

A. Either by the Bache-Denman Coal Company or the Kali-Inla Coal Company.

1139 Q. Is there any distinction between the Bache-Denman Coal Company and the Kali-Inla Coal Company?

A. Yes, they are two different concerns.

Q. Why did the Bache-Denman Company give a note for money for the Coronado?

A. I do not know. Have you got the note there we are talking about, a copy of it?

Q. I have the complaint filed by the president of the Coronado Coal Company; it is an exhibit to the deposition of Mr. Jackson, the president of your company, the Kali-Inla Company.

A. I am trying to get something before me to refresh my memory. It is hard for me to remember the details. I will say yes, subject to correction when I refresh my mind, that that is correct.

Q. Now, when did the Bache-Denman Company first contract its indebtedness to the Kali-Inla Company?

A. I cannot tell you.

Q. When did the Coronado Coal Company contract its indebtedness to the Kali-Inla Company?

A. From month to month and from year to year.

Q. For what? A. For loans, cash.

Q. I see that on the 24th of July, 1914, the Denman Coal Company executed a note to the Kali-Inla Coal Company for $2947.38? A. 1914?

Q. Yes. A. December 1914?

Q. July 24, 1914.

Mr. Drinker: If counsel will ask proper questions we do not object, but we do object to counsel reading statements from a paper that has nothing to do with the case.

The Court: The objection is well taken; the witness has not been interrogated with reference to this deposition.

1140 Mr. Drinker: I do not object to it as improper cross-examination, but only the method.

The Court: This witness is not presumed to know the contents of that.

To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

Q. Did the Denman Coal Company execute, on the 24th day of July, 1914, a demand note bearing eight per cent interest, for $2947.38?

A. I will have to answer that I do not think it did, for I think the Denman Coal Company was in the hands of a receiver at that time and was not executing any notes. Haven't you got the date wrong?

Q. I am just taking your president's statement under oath. Did the Hartford Coal Company, on June 1st, 1914, execute a demand note at eight per cent interest for $8700.00 to the Kali-Inla Coal Company? A. That sounds likely.

Q. That sounds likely? A. Yes.

Q. Do you say it is likely? A. Yes, I think it did.

Q. On the 4/22/14, I will ask you if the Mammoth Vein Coal Company did not execute to the Kali-Inla Coal Company a note bearing ten per cent interest for forty thousand dollars, due one year after date? A. I think so.

Q. What was that for? A. Cash advanced.

Q. When? A. At various times.

Q. Beginning when?

A. Many years before that; beginning say in 1906, roughly.

Q. When was the Hartford Coal Company debt contracted, the $8700.00?

A. In about the same way, along at different times,
1141 is my recollection.

Q. Didn't the Mammoth Vein Coal Company execute to the Kali-Inla Coal Company on the 31st day of December, 1912, a note bearing eight per cent interest for $41,083.19?

A. I think so.

Q. What was that for? A. Cash.

Q. Cash? A. Yes.

Q. When was the debt contracted?

A. Along in the course of the operations of the Mammoth Vein Coal Company, from time to time.

Q. Will the books of these various corporations show these debts as contracted for which these notes were executed?

A. They will with great exactitude.

Q. With what? A. With great exactitude.

Q. With great exactitude? A. Yes.

Q. Where are they kept?

A. At one time by a gentleman named Gully, and later by Mr. Finley.

Q. Did this note of $41,083.19, executed by the Mammoth Vein Coal Company, on the 12/31/12, cover all of its indebtedness to the Kali-Inla Company up to that period?

Mr. Drinker: I wish counsel would not make these assumptions of fact in his questions.

The Court: Make your objection.

Mr. Drinker: I object to the question on the ground it assumes something not shown by the testimony.

The Court: Objection sustained.

To which ruling of the Court, the defendants, and each of them, at the time duly excepted and still except.

Mr. Covington: I have interrogated him, your Honor, and he has answered that that was the correct date, and I
1142 was just referring to it again.

The Court: I was not aware he had stated it.

Mr. Covintgon: He said it was correct.

Mr. Drinker: He may have said the date was correct, but he did not say all that Mr. Covington infers in his question.

The Court: It may stand.

Q. What was your answer to that?

A. As to the note of $41,083.19?

Q. Cover the entire indebtedness up to the time of the execution of the note above referred to.

A. No, it did not cover the entire indebtedness. The debt was larger than that to the Kali-Inla Coal Company; I don't know how much.

Q. Did the Mammoth Vein Coal Company, in April, 1913, execute a demand note at eight per cent to the Kali-Inla Company for $420.00?

A. I do not know, Mr. Covington, I cannot answer that.

Q. Did the Mammoth Vein Coal Company on February 14, 1914 execute a note bearing eight per cent interest to the Kali-Inla Coal Coal Company for $37,200.00?

A. I think it did.

Q. What was that for? A. Cash.

Q. Cash? A. Yes.

Q. Loaned?

A. Those notes you speak of there were renewals and consolidations of other notes and advances on open accounts,

that aggregated that sum. The Kali-Inla Coal Company on that particular date did not hand out that amount of cash, to the Mammoth Vein Coal Company. It had handed out the cash from time to time that was covered by that note. And that same thing applies to the other notes you have referred to.

1143 Q. Did the Mammoth Vein Coal Company on July 24, 1914, execute to the Kali-Inla Coal Company a demand note bearing eight per cent interest for $3448.00?

A. Well, I think it did.

Q. What was that for? A. For cash advanced.

Q. Cash advanced?

A. Yes; again not at that particular time.

Q. Did the Prairie Creek Coal Mining Company, on April 8th, 1913, execute a demand note bearing eight per cent interest to the Kali-Inla Coal Company for ten thousand dollars? A. I expect that is correct.

Q. What was that for?

A. It was either a consolidation or renewal of an old note, or perhaps some renewals of an old note and some cash advanced at the time.

Q. Covering what period?

A. A period of several years.

Q. Several years.

A. Probably. I can refresh my memory a good deal on these things.

Q. Did the Prairie Creek Coal Mining Company, on July 24, 1913, execute a demand note bearing eight per cent interest to the Kali-Inla Company for $19,400.00?

A. It is a possibility. I do not have an exact recollection to any of these notes, but all of these companies were indebted to the Kali-Inla Company largely.

Q. Did the Prairie Creek Coal Mining Company, on July 24, 1914, execute to the Kali-Inla Coal Company, a demand note bearing eight per cent interest for $5000.00?

A. I make the same reply, as I have made to all the rest of them, if that is satisfactory to you, I can repeat it each time if you desire.

Q. It was in the hands of the receiver then, was it?

A. What is the date?

1144 Q. The 24th day of July, 1914?

A. Well, I think it was on that date; I have forgotten the date of the receivership. If that was before the receivership it is all right as it is; if it was after the receivership there must be something wrong with the dates.

Q. Did the Prairie Creek Coal Mining Company on April 22nd, 1914, execute to the Kali-Inla Coal Company a note bearing eight per cent interest for $10,000.00?

A. Same answer.

Q. Now, you signed all these notes as president of these companies, did you not? A. I do not recall.

Q. You do not?

A. No, they may have been signed by the vice-president or other people who had authority to sign.

Q. Are these notes in the possession of C. H. Finley, the treasurer of the Kali-Inla Coal Company?

Mr. Drinker: I think the witness stated he did not remember whether Mr. Finley was treasurer or someone else was treasurer. And I renew the same objection, that the question assumes facts the testimony does not show.

The Court: Objection sustained.

To which ruling of the Court, the defendants, and each of them, then and there duly excepted and still except.

Q. Do you know whether they have ever been paid?

A. I have no knowledge of their ever having been paid.

Q. Do you know whether any of them have been paid or not? A. I doubt it exceedingly.

Q. When did you begin operating the coal property of the Kali-Inla Coal Company?

A. You mean the mine that the Kali-Inla Coal Company now operates?

Q. Yes, sir. A. About 1903 or 1904.

1145 Q. Before you began the operation of the Kali-Inla Coal Company, I will ask you if it is not a fact that you as president of that company and Mr. Denman as vice-president, executed to the Land Tile & Trust Company of Philadelphia, a mortgage of $50,000.00?

A. We did about that time.

Q. And it remains unpaid today, does it not?

A. No, it does not.

Q. When was it paid? A. Ten or twelve years ago.

Q. Ten or twelve years ago? A. Yes.

Q. Did you satisfy the record? A. I expect we did.

Q. Did you make the payment?

A. Indeed, I cannot remember, Mr. Covington, whether I handed them the money or not. The mortgage was paid off and whether the record was satisfied I have no recollection.

Q. That was $30,000.00 that the president of the company, Mr. Jackson, advanced? A. Yes.

Q. And it remains unpaid today? A. It does not.
Q. Did you pay him that $30,000.00? A. I did not.
Q. Did anybody else?
A. The money was paid to the trustee for the mortgagee, which is the customary way of paying a mortgage. I do not know what he did with it.
Q. And if it never reached Mr. Jackosn you do not know anything about it?
A. The mortgage was paid and the people that held the bonds were paid off years ago.
Q. Is it not a fact that Mr. Jackson, now president of the company, advanced thirty thousand dollars to the Kali-Inla Coal Company and the Land Title & Trust Company was made trustee and you executed a mortgage to secure that amount and that you have never paid one dime on it.
A. No, sir, it is not true.
1146 Q. It is not true? A. No, sir.
Q. Has the Kali-Inla Coal Company ever declared a dividend? A. No.
Q. Did Mr. Jackson, the president of the Kali-Inla Coal Company advance $30,000.00 to the Kali-Inla Coal Company?
A. I cant either answer that yes or no. If you will let me explain I can, will that be all right, so I can make it clear to you? I want to be exact about it.
Q. All right.
A. In the case of the Kali-Inla Coal Company and in the case of the Coronado Coal Company, mortgages were placed on the property in the name of the Land Title Trust Company as trustee, and bonds were issued under those mortgages. I do not remember whether Mr. Jackson took any of those bonds himself or whether he sold those bonds to friends of his. So dont know whether Mr. Jackson personally put up the $30,000.00 or whether Mr. Jackson had friends of his put up the $30,000.00 by buying the bonds.
Q. Mr. Jackson holds stock in the Coronado Coal Company, does he not? A. Yes, he does.
Q. Have you ever paid a dividend on that stock?
A. No.
Q. When was the company organized?
A. About 1908 or 1909 or 1907; I cannot remember the exact dates, it is so many years ago.
Q. What was the capacity of the Kali-Inla Mine?
A. The mine now being operated?
Q. Yes. A. May I state something to you?
Q. That is what I am asking you about?
A. I want to make plain that the Kali-Inla Coal Company at different times operated two different mines, and

I am trying to get perfectly certain what mine you are talking about.

1147 Q. We will take the first mine it opened up.

A. The first mine it operated or opened up?

Q. Yes, sir.

A. The first mine it operated was a [mines] belonging to the Choctaw, Oklahoma & Gulf at Alderson, which operated them about eighteen months, and then it did not operate anything, it did not do anything; it was in a quiescent condition, so to speak, until later it opened up another mine perhaps ten or fifteen miles away from the mine it operated for the Choctaw, Oklahoma & Gulf. You are talking about the mine now operated?

Q. Did you ever conduct the Alderson mine any more, the Kali-Inla Company, after you left it? A. No.

Q. You conducted the first mine eighteen months?

A. About that time.

Q. What was the capacity for that eighteen months?

A. Seven hundred or eight hundred tons a day, I think.

Q. Seven hundred or eight hundred tons? A. Yes, sir.

Q. You operated that on non-union conditions? A. Yes.

Q. Did you declare dividends during those eighteen months?

A. I do not recall whether we did or not. We made some money, and I think it is quite possible we did. The only people interested in the Kali-Inla Coal Company at that time were Mr. Denman and myself and those few stockholders I have mentioned in my family.

Q. Now, we will go to the second mine; when did you begin to operate that, I mean the Kali-Inla Company.

A. I have already stated that was in 1903 or 1904.

Q. 1903 or 1904? A. Yes.

Q. You conducted the first mine on the open shop plan?

1148 A. Yes, sir.

Q. With non-union labor? A. Yes.

Q. At the time you were conducting this mine in your own behalf, and that of the Rock Island and the Choctaw, Oklahoma & Gulf, they were also operating union mines in the state of Illinois, were they not?

A. They were not. The Choctaw, Oklahoma & Gulf was not operating anything in the State of Illinois.

Q. Do you know that? A. Yes.

Q. How do you know that?

A. By general information.

Q. How about Indiana?

A. Nor in Indiana either. I will get right there. The Chicago, Rock Island & Pacific Railroad and the Choctaw, Oklahoma & Gulf in 1903, and it is very likely that the Chicago, Rock Island & Pacific was operating mines in Illinois and Indiana previous to this time.

Q. When and by whom were you succeeded in the conduct and operation of the Rock Island Railroad properties?

A. By the Rock Island Coal Mining Company.

Q. Who succeeded you?

A. Nobody succeeded me. The company that I operated there was succeeded by the Rock Island Coal Mining Company and our company abandoned operation.

Q. Didn't Carl Sholz, now with the Burlington Railway, take charge of the Rock Island properties you were then in possession of and operate them after that?

A. I think Mr. Sholz was superintendent or vice presiden of the Rock Island Coal Mining Company, which succeeded us in the operation of the mines.

Q. When? A. In 1902 or 1903.

Q. Now what was the capacity of this second Kali-Inla Property you have referred to?

1149 A. Well, of course, at first there was no capacity until it was developed it gradually increased and I think its maximum production at any time has been seven hundred tons in a day of eight hours; its average was probably four or five.

Q. Did you operate the mine with union or non-union labor, the second one? A. With union labor.

Q. When did you abandon the non-union plan and go on the union plan?

A. That mine never operated on the non-union plan.

Q. Well, the company did, didn't it, Mr. Bache? You operated at Alderson? A. Yes.

Q. When did it abandon the non-union plan and go on the union plan?

A. The Kali-Inla Coal Company operated altogether on the open shop plan at its mine at Alderson. Then it was doing nothing for a few years.

Q. For how long? A. A year or two.

Q. Is that as near as you can get at it?

A. Yes, I can get at it closer than that by refreshing my memory for some time back.

Q. Refresh your memory and see how long it was.

A. I do not mean I can do it here. I will have to go to the letter files or something of that kind to look it up. When it opened up, or started to work again everything was union here.

Q. Was it union when Mr. Sholz took hold of it?
A. No, not when he took charge of the mines of the Choctaw, Oklahoma & Gulf.
Q. Now, since 1903, the Kali-Inla Coal Company has been operating with union labor, has it?
A. I think so. The present Kali-Inla Coal Company's mine has never been operated by anything but union labor.
Q. And it is still in operation today with union labor?
1150 A. As far as I know it is.
Q. Don't you know that it is?
A. Well, I know it was in operation a few days ago, and I suppose it is in operation now.
Q. How much profit annually has the Kali-Inla Coal Company realized from the conduct and the operation of this second plant you refer to with union labor?
A. Approximately $35,000.00 a year.
Q. The amounts I have referred to approximate about $318,000.00, that that company has loaned to the other Arkansas coal companies in the last few years; is that about, right, Mr. Bache?

Mr. Drinker: I object to that on the ground it states a conclusion.

The Court: Objection overruled.

To which ruling of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

A. It loaned about that much.
Q. Can you explain why it was you did not declare a dividend on the Kali-Inla stock instead of loaning that money to your companies in Arkansas?
A. We were in hopes of developing these properties over here and making them valuable and then we put what has turned out to be good money after bad.
Q. You are trying to carry them all along together at the same time? A. Yes.
Q. That is what you were doing? A. Yes.
Q. Now, is the property that these plaintiffs own here in Arkansas—is that the property that has been constructed and bought, the equipment and all, with the money you have made from the Kali-Inla property? A. No.
Q. Funds from the Kali-Inla mine?
1151 A. No.
Q. And about what amount of the money comes from the Kali-Inla? A. About $400,000.00.
Q. Did you make that $400,000.00 with union labor?
A. No.

Q. You operated with union labor, did you not?

A. I was going to explain that some of that we got by borrowing, borrowing for the Kali-Inla Coal Company to try to pull these things along.

Q. You had the Kali-Inla Company borrow money to loan to your plaintiff companies in this state? A. Yes.

Q. Have they paid it all back? A. No.

Q. How much do they owe? A. The same amount.

Q. To whom do they owe it?

A. To the Kali-Inla Coal Company.

Q. I mean the Kali-Inla Coal Company. I understood you to say that the Kali-Inla Coal Company borrowed money and loaned it to the plaintiff companies in Arkansas to equip these mines? A. Yes.

Q. About $400,000.00.

A. I do not think you asked it quite that way. You asked how much we put in. We have put in about $300,000.00 in the shape of loans and I think $80,000.00 or $90,000.00, well that was put in in loans and later put in stock. They took the stock of one of the companies in the place of notes.

1152 Q. Did you bring the mine equipment, I mean the machinery and equipment that you had been producing coal with in the mines of the plaintiffs here, did you bring that from the Kali-Inla Coal Company, did it furnish it? A. It furnished a little.

Q. What? A. I can't answer offhand.

Q. What mine?

A. Well, some at Prairie Creek, I think, and some at Mammoth Vein, and some probably at Coronado; I cannot answer that with any degree of accuracy. I know they bought some equipment, and leased it to those companies.

Q. The Kali Inla retained the title to that property, did it? A. Yes, sir, in some instances it did.

Q. Under your agreement? A. Yes, sir.

Q. And the entire part of this property, it owned down to every bolt in the property of Mine No. 4?

A. Is that so? You want me to answer that?

Q. I am asking you for a fact?

A. No, sir, it is not.

Q. Now, what property was there there that it did not own? A. I cannot answer that offhand.

Q. Have you any books, any means of getting at it?

A. Oh, yes.

Q. What are they?

A. I have got the mover here, they are the property of the Receiver.

Q. Where are the books?
A. I presume in the Receiver's possession here in Ft. Smith, that would be the proper place for them, in fact I know they are.

Mr. Warrum: We would like to have the plaintiffs' Receivers produce these books, if the court please, and if not,—

The Court: It is not necessary for you to do more
1153 than make your demand, is it?

Mr. Warrum: I think not.

The Court: Certainly the court would not act until the demand had been presented.

Q. (Mr. Covington) Mr. Bache, is it not a fact that the Prairie Creek Coal Mining Company and the Mammoth Vein Coal Mining Company, that was operating this Mine No. 4 at the time of its destruction, was paying rent to the Kali Inla Coal Company on everything connected with that mine? A. No.
Q. Can you name something that they were not paying rent on?
A. Not offhand, I might just happen to name something that the Kali Inla Coal Company owned. I don't remember what particular items of equipment in the mine belonged to the Kali Inla Coal Company, and which particular ones did not.
Q. Is it not a fact that they even owned the rails, and charged rent on each rail in each mine, and sent you in a bill for it, and you have been paying it all these years?
A. It is quite possible, I cannot answer that question in that way, though.
Q. And you are President of those companies?
A. Yes, sir. I cannot remember what particular items in every mine were owned by the Kali Inla Coal Company and leased, and what particular items were owned by the Prairie Creek Coal Company itself. I happen to remember one item that the Kali Inla Coal Company owned, it was a mining machine, but I know that they did not own everything.
Q. Did the Mammoth Vein Coal Company own any property down there? A. Yes, sir.
Q. What property?
A. It owned the mine it operated.
1154 Q. Did the Mammoth Vein Coal Mining Company own any property?

Q. It owned the lease on 340 acres, I think it was, of coal land, which was owned by the Cherokee Construction Company, we owned the leasehold on the land, it owned that.
Q. The Mammoth Vein Coal Mining Company?
A. Yes, sir.
Q. That was a hundred dollar corporation?
A. It consisted of one hundred shares of one dollar each.
Q. You owned 98 shares of the 100?
A. I don't think I owned any of them.
Q. You did?
A. I possibly did when it was incorporated.
Q. Mr. Bache, I show you, or present you, with the articles of incorporation of the Mammoth Vein Coal Mining Company, certified to by the Secretary of State in West Virginia (handing witness a document).
A. It looks authentic.

Mr. Covington: I wish to offer this in evidence.

Mr. Drinker: Are you offering it? Is this offered as an official document, or identified by the witness, in what way is it offered?

Mr. Covington: Both.

Mr. Drinker: I have no objection.

The Court: We will consider it read.

(The paper so offered in evidence is in words and figures following, to-wit):

"State of West Virginia
Certificate of Incorporation.

I, C. W. Swisher, Secretary of State of the State of West Virginia, do hereby certify that an Agreement duly acknowledged and accompanied by the proper affidavits, has been this day delivered to me, which agreement is in
1155 the words and figures following:

I. The undersigned agree to become a corporation by the name of Mammoth Vein Coal Mining Company.

II. The principal place of business of said corporation shall be located at the city of Fort Smith, in the county of Sebastian, and State of Arkansas. Its chief works will be located in the State of Arkansas.

III. The objects and purposes for which this corporation is formed are as follows:

To own, hold, lease and otherwise acquire real estate; to incumber and improve the same, and to sell, let and demise or otherwise dispose thereof, to purchase any and all wares, commodities, goods, merchandise, live stock and personal property of any nature and the same to sell again for profit; to mine coal and make coke and to sell [any] buy coal and coke.

IV. The amount of the total authorized capital stock of said corporation shall be One Hundred (100) dollars, which shall be divided into one hundred (100) shares of the par value of One (1) dollar each; of which authorized capital stock the amount of one hundred (100 dollars has been subscribed, and the amount of One Hundred (100) dollars has been paid.

V. The names and postoffice addresses of the incorporators and the number of shares of stock subscribed for by each, are as follows:

Names	P. O. Address	No. of Shares Common Stock
F. Bache	Fort Smith, Arkansas	96
H. Denman	Midland, Arkansas	1
Ransom Gully, Jr.	Midland, Arkansas	1
John W. J. Trigg	Midland, Arkansas	1
A. Clark	Fort Smith, Arkansas	1

1156 VI. This corporation is to expire in fifty years from the date of this certificate of incorporation.

Given under our hands this 15th day of July, 1905.

F. BACHE
H. DENMAN
RANSOM GULLY, JR.
JOHN W. J. TRIGG
A. CLARK.

Wherefore, The corporators named in the said Agreement and who have signed the same, and their successors and assigns, are hereby declared to be from this date until the Nineteenth day of October Nineteen Hundred and Fifty-Five a Corporation by the name and for the purposes set forth in said agreement.

Given under my hand and the Great Seal of the said State, at the City of Charleston, this Nineteenth day of October, Nineteen hundred and Five.

C. W. SWISHER
Secretary of State.

State of West Virginia
June 20 1863
Montani Semper Liberi

(Certificate Under Section 906 Revised Statutes of the United States.)

United States of America,
State of West Virginia,
Office of Secretary of State.

I, Houston G. Young, Secretary of State of the State of West Virginia, being the officer who, under the constitution and laws of said State, is authorized to issue certificates of incorporations of all companies incorporated under the laws thereof, and being the officer authorized to issue certificates certifying changes in and amendments to such certificates of incorporation, and being the officer who is the keeper of all the records and papers relating to the creation of
1157 such incorporated companies, appointing a resident agent or attorney in said State, and of the reports of such incorporated companies, and being the officer authorized to authenticate exemplifications of the same, do hereby certify that the foregoing and annexed instrument is an exemplified copy, carefully compared by me with the original record now in my official custody as said Secretary of State, and found to be true and correct copy of the Certificate of Incorporation of Mammoth Vein Coal Mining Company dated the 19th day of October, 1905, and recorded in the records of Corporations of my said office; and that said exemplification is in due form and made by me as the proper officer, and is entitled to have full faith and credit given it in every court and office within the United States.

In Testimony Whereof I have hereunto attached my official signature and the Great Seal of the State of West Virginia, at the Capitol in the City of Charleston, this 22nd day of September, 1917.

(Great Seal)

HOUSTON G. YOUNG
Secretary of State."

Q. (Mr. Covington) It shows that it was organized October the 19th, 1905, I believe?

Mr. Drinker: I object to the question as an assumption not in the record; it is leading, and putting the answer into this witness' mouth.

The Court: I think it is. Objection sustained. You are assuming that he testified to what you are reading there.

To which ruling of the court the defendants, and each
1158 of them then and there duly excepted and still except.

Q. Is that correct, Mr. Bache?
A. That that was organized on a certain date?
Q. Yes.
A. I don't recall the date of organization. What date did you say it was?
Q. Do you recall that you was the principal stockholder in it?
A. In looking at it there I see that I owned,—how many shares was it?

Mr. Drinker: If your Honor please, I object to the questions being asked of the witness from this paper.

The Court: There is no injustice being done this witness, there is no question here but what is legitimate, the only thing is that counsel assumes that he has testified to something in the paper that he has not, but this question is perfectly fair.

Q. It shows that you own 96 shares of stock.
A. It shows that when it was incorporated, that I owned 96 shares of this stock, but it doesn't show that I own it now.
Q. But I wanted to find out what, the fact, what did you do with it?
A. My recollection is I turned it over promptly to the Mammoth Vein Coal Company.
Q. The Mammoth Vein Coal Company? A. Yes, sir.
Q. Is that another company you are president of?
A. Yes, sir.
Q. You owned all the stock in that company, did you?
A. No, sir.
Q. What did you turn it over to the Mammoth Vein Coal Company for?
A. Because the only purpose we had in view when that company was organized was to lease certain lands that we considered very valuable land, immediately adjoining a
1159 mine operated by the Mammoth Vein Coal Company, in order that the Mammoth Vein Coal Company might have this additional coal land, and the coal on it, to take out through its own mine, and increase the value of the Mammoth Vein Coal Company.

Q. When was that stock turned over to the Mammoth Vein Coal Company? A. I don't know.

Q. Will your books show? A. They will.

Q. Was this stock turned over to the Mammoth Vein Coal Company before the Mammoth Vein Coal Mining Company began operation on the 27th of March, 1914?

A. Oh, I think so; I think so.

Q. Can you give us an idea of about how long before?

A. No. I fancy,—I believe it was turned over almost immediately after the incorporation of the company, but it may not have been, I would have to refresh my memory.

Q. And what did you say was the object and purpose of turning it over?

A. Because the Mammoth Vein Coal Company was operating a mine, the slope and entries of which had gone out beyond the property line of the Mammoth Vein Coal Company's own mine, and we thought it desirable that additional land be secured to insure a long life and continued operation of the mine of the Mammoth Vein Coal Company, which was a pretty expensive plant, and on which we had done a great deal of development work, and so we leased this land, this additional 340 or 360 acres, in order to increase the value of the Mammoth Vein Coal Company.

Q. Did this Mammoth Vein Coal Mining Company own this land that you had driven your entries into before you obtained that lease?

A. No,—you mean to say,—did you ask,—repeat it, Mr. Covington, I don't quite understand it.

1160 Q. Did the Mammoth Vein Coal Company mine over the line onto other property belonging to other people before you obtained the lease for it? A. I don't think so.

Q. Did this hundred dollar corporation have any property at all? A. Except that leasehold it had none.

Q. Is it not a fact that what it owned it owned it as trustee for the Mammoth Vein Coal Company, and didn't own a thing itself?

A. No, that is not the fact, the facts are as I have stated them. I cannot put a construction on facts. I think that the Mammoth Vein Coal Company owned the stock of the Mammoth Vein Coal Mining Company, whether that constitutes a trusteeship or not is a matter for the lawyers to decide and not me.

Q. You have the lease now in the name of the Mammoth Vein Coal Mining Company? A. Yes, sir.

Q. And turned the stock over to the Mammoth Vein Coal Company, is that correct? A. That is my recollection.

Q. Now, had the Mammoth Vein Coal Company mined over the line with its entries, onto the property that the Mammoth Vein Coal Mining Company afterwards secured lease to?

A. I don't think so.

Q. You don't think so?

A. Not at the time that the lease was made.

Q. You didn't stay around the mines much, did you, Mr. Bache?

A. I was up and down the line quite frequently, but not a great deal.

Q. Were you ever in a mine?

A. Yes, sir, I have been in a mine.

Q. From whom did the Pennsylvania Mining Company obtain the lease,—this company, the Mammoth Vein Coal Mining Company, from whom did it obtain the lease?

1161 A. From the Cherokee Construction Company.

Q. The Cherokee Construction Company?

A. Yes, sir.

Q. Did it pay anything for it?

A. I think it paid $2400.00 a year for it.

Q. That was in royalties, was it?

A. Yes, sir, it rented the property on an agreed rental, I think, of $2400.00 a year, or $4800.00 a year. $2400.00 a year.

The Court: I believe this is a good place to recess. We will now stand adjourned until Monday, October 29th, 1917, at 9:30 a. m.

1162 Fort Smith, Arkansas,

Monday, October 29, 1917.

Pursuant to adjournment as last aforesaid came the parties as before on Monday, October 29, 1917, and the trial of the case proceeded as follows:

Mr. Warrum: If the Court please, the defendants have a motion they wish to file.

The Court: The same may be filed.

Which motion is in the words and figures as follows:

"In the District Court of the United States, Western District of Arkansas, Fort Smith Division.

Coronado Coal Company, et al, Plaintiffs,
vs.
United Mine Workers of America, et al, Defendants.

Motion for Production of Books, Etc.

To the Honorable District Court of the United States, Western District of Arkansas:

Your petitioners, the defendants in the above entitled cause, separately petition and show to the Court:

First. That in the above entitled cause the plaintiffs are seeking to recover damages in the sum of $2,220,000.00 alleged to have been suffered by them by reason of the wrongful acts of the defendants in the destruction of the properties of the respective companies, plaintiffs, including damages to the plant, to the development of mining leases, loss of royalties, and of prospective profits, and that they have put in issue and undertaken to prove the investments made in said companies respectively, and the business and property of each.

1163 Second. That on October 27, 1917, the defendants counsel served written request on plaintiffs counsel to produce for defendants inspection and use at the trial certain books, papers and documents of the plaintiff companies, a copy of which request is attached to this petition as "Exhibit A" thereto, and made a part hereof.

Third. Upon October 28, 1917, the plaintiffs counsel notified counsel for the defendants that they would not produce said books, papers and documents for the defendants inspection and use at the trial of said cause.

Fourth. Plaintiffs have introduced testimony at the trial of this cause for the purpose of showing investments made by Franklin Bache and H. Denham in the various plaintiff corporations, whereas the defendants are informed and believe that the stock-books, stock-ledgers and books of said plaintiff companies showing the issuance, transfers, holdings of outstanding stock and the cash or other values received therefor, from the organization of the companies down to the appointment of the Receiver, and will disclose that no mines whatever or anything of reasonable value were invested in said corporations.

Fifth. Your petitioners state that it is pertinent to the issues involved in this cause for them to show the relations

and inter-relations of the plaintiff companies, the exchanges of leases and authority therefor, the action on [promotor's] contracts, the execution of notes and other evidences of indebtedness between said companies without consideration, and the authority therefor, and the execution of accommodation paper by one or more of said companies for either of the plaintiff companies; that they believe the minutes of the stockholders and directors meetings, both regular and special, of
1164 said several corporations, from the date of their organization down to the appointment of the receiver, will make disclosure of such facts.

Sixth. Your petitioners further state that it has become pertinent to the issues involved in this case to show the receipts and disbursements of the plaintiff companies preceding the appointment of the receiver, the bills receivable and payable, the notes held and outstanding against them, and the accounts of said several plaintiff companies with each of them, and with the Kali-Inla Coal Company, and the accounts of the salary of officers and agents of said companies; and that said accounts, transactions and matters appear in the cash books, ledgers, journals and account books of said companies from the time of the organization of said companies to the 25th of July, 1914.

Seventh. Your petitioners allege that the plaintiffs have a list of the personal property, attachments, machinery, appurtenances, which are referred to in the lease executed by the Cherokee Construction Company to the Prairie Creek Coal Mining Company dated July 1, 1909, and which list was not filed for record with the recording of said lease; that said list contains evidence pertinent to the issues involved in this cause in that it discloses the list of properties that were owned by the Cherokee Construction Company and merely leased to the Prairie Creek Coal Mining Company, whose property is alleged to have been destroyed.

Eighth. That it has become pertinent to the issues of this cause to show what properties, appurtenances, machinery, fixtures and attachments in or about any of the plaintiff companies mines belong to the Kali-Inla Coal Company at the time of their alleged destruction, and that the plaintiffs have in their possession an accurate list thereof.

1165 Ninth. Your petitioners allege that the plaintiffs have a list or account of the leases and incumbrances placed upon the property of the respective companies, and that proof of such leases and incumbrances are pertinent to the issues in this cause.

Tenth. Your petitioners believe and allege that all of said books, documents and papers are extremely important, pertinent, relative and material to the issues involved in this cause which will tend to support the contention of the defendants with relation to the issues herein. That the petitioners have neither copies nor originals of the books, documents or papers, and can not procure the same except on order of the court, but that the plaintiffs have possession and control of said books, documents and papers.

Wherefore, the petitioners severally pray:

1. That an order be made directing the plaintiffs and C. H. Finley, and H. P. Hilliard, as receivers and individually, and F. Bache as the president of said plaintiff companies, and C. H. Finley as Secretary of said plaintiff companies, each and every one directing and requiring them and each of them to produce instanter for the inspection and use of the defendants on the trial of this cause now pending, the books, documents and papers above described, and each and all of the same, and for such other relief as may be proper in the premises.

(Signed) HENRY WARRUM,
COVINGYON & GRANT,

State of Arkansas,
Sebastian County—ss.

I, R. P. Stewart, one of the defendants in the above en-
1166 titled cause, on oath state that I have read over the fore-
going petition, and the matters and things set forth therein are, so far as my personal knowledge goes, true, and those things which are not known to me to be true are believed to be true; and that I make this afidavit on behalf of myself and all other defendants in said cause.

(Signed) P. R. STEWART,

Subscribed and sworn to before me on this the 29 day of October, 1917.

(Signed) WM. S. WILLSHEAR,
Cerk U. S. Dist. Court,
By R. Salzman, Deputy Clerk.

Certificate.

I, G. L. Grant, do hereby certify that I am one of the attorneys of the defendants in the above entitled cause; that I am familiar with the complaint and answer in this cause, and that I therefore certify that in my opinion the matters and things

called for in the above and foregoing petition are relevant and pertinent and material to the trial of this cause.

(Signed) G. .L. GRANT.

Exhibit "A".

In the District Court of the United States Western District of Arkansas, Fort Smith Division.

Coronado Coal Company, et al, Plaintiffs,
vs.
United Mine Workers of America, et al, Defendants.

To Counsel for Plaintiffs:

1167 We hereby ask you to deliver to us for inspection and use at the trial the books of the plaintiff companies, Coronado Coal Company, Denman Coal Company, Mammoth Vein Coal Company, Bache-Denman Coal Company Hartford Coal Company, Sebastian County Coal Comapny, Mammoth Vein Coal Mining Company, Mammoth Vein Royalty Company, Prairie Creek Coal Mining Company,—the following books papers and documents.

1. The stock book, stock ledger or other books showing the issues, transfer and holders of outstanding stock, and the books showing the amount received for any stock issued.

2. The minutes or stockholders meetings both regular and special.

3. Ledgers, and jourals, showing all receipts and disbursements of the plaintiff companies, bills receivable, bills payable, accounts and notes and all [tansnactions] between the plaintiff companies with each other and the Kali-Inla Coal Company.

4. Also the books containing accounts of the salaries of the officers and agents of said companies and payments made therein.

Said books, papers and documents covering the entire period from the organization of said companies to this date.

Respectfully,

HENRY WARRUM,
COVINGTON & GRANT,
Attorneys For Defendants.

This October 27, 1917."

The Court: Do you desire to debate upon this motion at this time?

Mr. McDonough: If your Honor please, we would like to have until tomorrow morning to respond to it if we
1168 can have that length of time.

The Court: I presume you can have some time; and the Court will fix until tomorrow morning for hearing unless there is some reason why you should be heard earlier.

Mr. Warrum: The only reason we made the other request, which your Honor suggested was perhaps premature, was that these books have become very valuable, having been referred to during the course of the examination of Mr. Bache, who undertakes to testify generally about the matter.

1169 Mr. McDonough: I would like to say generally that all of these books have been under the order and protection of this court for almost three years, and are in the hands of the receiver subject to the order of Court, and there has been no secret about any of them.

The Court: That may be so, and they not have them. I am wondering whether a [suponea] duces tecum would not bring those books.

Mr. Warrum: Those parties are within the jurisdiction of the Court just the same as we are, and a subpoena duces tecum would be the proper way perhaps.

The Court: There is no question of the Court having authority over them.

Mr. McDonough: The question in our minds is one of materiality and relevancy.

The Court: The Court is ready to pass on that. The Court can see the materiality and relevancy of these books, because you have put this witness on the stand and have covered all of his dealings and referred to all of these mines, what their sales were, and what they were capable of producing, and it now becomes very material to know what their production as, what was paid out, what the items were, because that will enter into the question of damages.

Mr. Warrum: And if the Court please, may I suggest that we have not only followed the petitions filed by the plaintiffs in this case accurately, but have supplemented them so there might be no question from our point of view as to the position of these gentlemen, who have asked for the production of papers of the defendants, without showing they

were relevant; but they took the position that Judge
1170 Youmans sustained them, and that your Honor sustained that ruling, that they were competent.

The Court: The Court will be liberal in its permission to inspect. I think that is all the order to be made now, and I think the order may be entered.

Mr. Warrum: Shall we prepare the order, or will it be by the dictation of the Court?

Mr. McDonough: I would like to say one thing, if the Court please.

The Court: There is no question in the Court's mind of the materiality of these papers, and there is no question of the fairness and the justness of the gentlemen on the other side being permitted to examine them.

Mr. McDonough: Counsel came to us yesterday and I stated personally that in view of the transactions such as these companies had, and the notice requiring us to produce everything in the world from the organization of the company down to the present time, where millions of items had gone into it,—that it seems to me like an enormous matter and one wholly irrelevant and immaterial, but that we would give them an answer this morning in writing, and we did. I stated to them in that conversation that I could not say whether we would leave the matter to the Court or decline, but that we would give them an answer this morning, which we did; but they did not attach that to their motion. And that is why we wanted until tomorrow morning for our response. We would like to have a response of record. We are not in the attitude of opposing these matters, insofar as they are relevant. These papers have been in the Court for more [—] three years.

1171 The Court: The Court thinks that the fact that they pertain to matters in controversy is sufficient to give the persons desiring inspection the right to do so.

Mr. McDonough: The question is, how are they relevant to prove any question here?

The Court: The Court does not care to argue it with you; that is the least of our troubles.

Mr. Warrum: The books as desired will be entered on the order, but the order we will prepare later at our earliest convenience.

The Court: Yes, let the record show that the application is filed and allowed by the Court and that the plaintiffs are permitted to file a response nunc pro tunc as of this time. And because of the condition that confronts counsel now, with the witness on the stand, the Court deems that it is a matter to be determined now, and the motion of the defendants will be and is allowed, and the plaintiffs will be required to produce so much,—not the plaintiffs, but the persons named in the petition; are they all plaintiffs?

Mr. Hull: If the Court please, the matter of physical procedure, the books are very volumnious.

The Court: Let me add, that they be required to produce so much of the papers as they have in their possession, and make showing, if for any reason any portion of the records required cannot be produced, and that the same be brought to this building with the custodian suggested by the plaintiffs, and the marshal is directed to furnish a room in which they can be kept, where both parties will have free access to them.

1172 Mr. McDonough: It will take time. The volumes are numerous and heavy.

Mr. Warrum: We expressed hundreds of documents from Indianapolis.

Mr. McDonough: I would like to ask for information, whether the order goes to everything relevant to the prosecution of this lawsuit, under the direction of the Court. If the Court orders everything in relation to this suit it will include matter passed on by Judge Youmans. Does this order bring in those documents?

The Court: It will include everything material.

1173 FRANKLIN BACHE, recalled as a witness, testified further as follows:

Cross-Examination (Cont'd.)

By Mr. Covington:

Q. Mr. Bache, what particular lands are covered by the lease from the Cherokee Construction Company to the Mammoth Vein Coal Mining Company, referred to by you on Saturday afternoon?

A. The Cherokee Construction Company leased to the Mammoth Vein Coal Mining Company I think included 340 acres of land lying to the dip of and adjoining the mine of the Mammoth Vein Coal Company.

Q. When was that lease made?

A. About 1906. I do not recall the exact date. I do not even recall even the exact year; about that time.

Q. Did it include the property on which No. 4, the mine known as No. 4, was located?

A. No. There was no mine located on it at all.

Q. Had there ever been? A. No.

Q. Where was it located with reference to No. 4?

A. It adjoins the lease, the No. 4 lease to the southwest.

Q. How far away from No. 4?

A. It is immediately adjoining.

Q. Well, how far it is,—how far does the lease of No. 4 extend from the shaft?

A. Oh, about three or four thousand feet.

Q. About three or four thousand feet?

A. To put it another way, it is about three or four thousand feet from the No. 4 shaft to the line between the two properties.

Q. Then there never at any time was any mine located on the lease from the Cherokee Construction Company to the Mammoth Vein Coal Mining Company?

1174 A. Yes, sir, the mine workings of the Mammoth Vein Mine extended, eventually extended into the lease to the Mammoth Vein Coal Mining Company.

Q. There is no shaft located on this particular tract leased to the Mammoth Vein Coal Mining Company?

A. No, it was developed by a slope through the Mammoth Vein Coal Mining Company land.

Q. Has the Mammoth Vein Coal Mining Company, at any time, operated a mine in the Hartford Valley, up to the time that you hired it to operate No. 4,—up to the time that the Mammoth Vein Coal Company and the Prairie Creek Coal Mining Company hired it to operate No. 4?

A. I cannot reply, because I do not know that your way of phrasing the question by saying "hiring it to operate No. 4" is correct.

Q. You contracted with it to produce coal for those particular companies?

A. The contract is of record and speaks for itself.

Q. Up to that time had it ever operated any mines in the state of Arkansas?

A. No. The land it had under lease from the Cherokee Constitution Company was mined by the Mammoth Vein Coal Company.

Q. Had it ever transacted any kind of business in the State of Arkansas up to the time it made this contract to

operate No. 4 for the Mammoth Vein Coal Company and the Prairie Creek Coal Mining Company.

A. Yes, it had.

Q. What was it?

A. It was under lease agreement. The terms under which it held different leases from the Cherokee Construction Company provided that it should pay eight cents a ton royalty on any coal actually mined and if it did not mine coal
1175 it should pay a minimum rental of $2400.00 year; and that rent and royalty were paid from time to time as they came due by the Mammoth Vein Coal Mining Company to the people who owned the land and leased it to them,—the Cherokee Construction Company.

Q. Will the books of this particular plaintiff show that?

A. I think so.

Q. You were President of that company I believe, the Mammoth Vein Coal Mining Company? A. I think so.

Q. Then the only business that it ever transacted was to take a lease and pay the royalties under it, the minimum royalty, until it made the contract I have just referred to with the Mammoth Vein Coal Company and the Prairie Creek Coal Mining Company?

A. As far as I can remember just now, that is all aside from the ordinary bookkeeping transactions between it and the Mammoth Vein Company, because, you see, the coal on the Mammoth Vein Coal Mining Company land was taken out through the slope and development of the Mammoth Vein Coal Campany and there were some relations between the two companies.

Q. How many acres of the 260 acres included in the lease to the Mammoth Vein Coal Mining Company from the Cherokee Construction Company was mined by the Mammoth Vein Coal Company through its opening into this property?

A. 340 acres, I think it was.

Q. 340 acres?

A. Yes, you put the question wrong. You said two hundred and something acres.

Q. 340; how many acres of that was mined?

A. Not a great many before the destruction of this property.

Q. Approximate it. A. 40 acres, perhaps.

Q. 40 acres? A. Yes.

1176 Q. When was that mined?

A. It was not mined until along in 1911, 1912 and 1913, I expect. I am speaking now in a general way because the work of the Mammoth Vein Coal Company had not extended into this leased property which he expected to

get into furnish the coal for the continued operation of the Mammoth Vein mine until about that time and to increase and gradually work out across the line between the Mammoth Vein Coal Company and the Mammoth Vein Coal Mining Company.

Q. Did you ever make any report of the number of tons of coal mined from this particular tract of land leased to the Mammoth Vein Coal Mining Company by the Cherokee Construction Company, to the State of Arkansas?

A. I do not recall, sir.

Q. Have you ever assessed the personal property of the plaintiff Mammoth Vein Coal Mining Company for taxation? A. I do not know.

Q. You do not know much about this company, do you, Mr. Bache?

A. Well, I am giving you all the information I can that you ask me for.

Q. You were President of it, but you do not know whether it ever paid taxes or ever listed it.

A. I am very confident if it was taxed it paid the taxes.

Q. To whom was this particular matter left?

A. I suppose,—in fact I am certain the taxes would have been attended to by Mr. Denman or Mr. Finley.

Q. Didn't you give in the personal property for taxation in 1912 of this particular plaintiff?

A. I do not recall, Mr. Covington, whether I did or not.

Q. And didn't you give it in at $345.00?

A. As stated before, I do not recall.

1177 $845.00, I mean? A. I do not recall.

Q. From whom did the Prairie Creek Coal Mining Company obtain its lease for No. 4.

A. From the Cherokee Construction Company.

Q. When? A. About 1907.

Q. Was not it on July 1st, 1907?

A. I think not, Mr. Covington. My recollection is that there were two leases, one was made before that, and I think there was a lease made in 1909 which was a renewal of the older lease.

Q. The new lease however, was made in 1909, July 1st?

A. I expect that is probably correct.

Q. Now, I will ask you, Mr. Bache,—first I present you a certified copy of the lease of July 1st, 1909, from the Cherokee Construction to the Prairie Creek Coal Company and ask you if that is the lease you referred to when you say renewal? [A.] It will take a little time; I am sorry to delay things.

1178 A. This is the second lease, I think, it doesn't seem to refer back to another lease. Wait a moment. That

is the second lease, I am almost confident, although it does not refer to an earlier one, which I thought it would.

Q. Who owned the mining machinery, tools and appliances at Mine No. 4, when this instrument was executed?

A. Part of them were owned by the Prairie Creek Coal Mining Company and part by the Cherokee Construction Company.

Q. Will you read subdivision 5 of the lease just referred to?

The Court: Was it marked an exhibit?

The Stenographer: No, sir.

Mr. Covington: No, I intended to offer the entire instrument. I had better do that now.

The Court: Yes.

Mr. Covington: We now offer the entire lease.

Mr. McDonough: This is certified to?

Mr. Covington: Yes, sir.

Q. I will ask you to read sub-division 5.

A. You want me to read it to myself, or just read it out?

The Court: Just let the reporter mark the exhibit. Then the question will refer to the exhibit instead of the lease.

Mr. Covington: While we are on this point, there were several depositions taken, covering a period of twelve or fourteen months, I believe, and a great many exhibits, as I understand it, were attached to those particular depositions.

The Court: The court will assume that those depositions were marked by the stenographer, and they will be Exhibit A and B of John Jones' deposition.

1179 Mr. Covington: Yes, sir, but here we began Saturday with Exhibit 1 in this case, and the exhibits to the other depositions will follow in their order as shown by the depositions.

The Court: Yes, sir; of course Exhibits,—now, a little different situation arose with plaintiffs' exhibits.

Mr. Drinker: I think that in connection with the Green deposition there were four exhibits offered by the defendants there, that were offered as part of the cross-examination of the Green deposition, so they won't be mixed up.

The Court: They won't be, because they are referrd to in the record.

(Exhibit 3, so offered in evidence, is in words and figures following, to-wit):

Exhibit 3.

Deed Record 38 Page 598.

New Lease Between Cherokee Construction Company and Prairie Creek Coal Company.

This Agreement made and entered into as of date July 1st, 1909, between Cherokee Construction Company, a corporation created under the laws of the Territory of Oklahoma (now state) hereinafter designated "Lessor" of the first part, and the Prairie Creek Coal Mining Company, a corporation created under the laws of the State of Arkansas, hereinafter designated "Lessee" of the second part.

That Whereas, the Lessor is the owner of the following described coal lands situated in Sebastian County, State of Arkansas, to-wit:

1180 Lots one (1), two (2), nine (9), eleven (11) and twelve (12), Section one (1); Lot seven (7) and the Northeast diagonal halves of Lots eight (8) and fourteen (14), Section two (2); all of Lot ten (10) except the north two hundred and eighty (280) yards thereof and that part of said lot west of the Midland Valley Railroad right of way in Section one (1); all in Township four (4) North, Range thirty-two (32) West; and three (3) acres, more or less, out of the west side of Lot two (2), Section six (6), Township four (4) North, Range thirty-one (31) West, being all of said lot West of James Fork Creek; being three hundred and forty-eight and forty-eight hundredths (348.48) acres, more or less, which the Lessor own in fee simple;

The North two hundred and eighty (280) yards of Lot ten (10), Section one (1) Township four (4) North, Range thirty-two (32) West, and that part of said Lot West of the Midland Valley Railroad right of way, being twenty-five and one-tenth (25.1) acres, more or less, in which the Lessor owns the mineral right

Lots three (3), four (4), five (5), six (6), seven (7), eight (8), thirteen (13), and fourteen (14) Section one (1), Township four (4) North, Range thirty-wo (32) West, being three hundred and thirteen and twenty-six hundredths (313.36) acres more or less, which the Lessor holds under a coal lease for a term of twenty-years from May 31, 1909;

on which lands are situated Mines Nos. 3 and 4 of the Lessor; and

Whereas, The Lessee desires to lease said coal lands, together with all buildings and machinery situated thereon or therein, including miners' houses, warehouses and all other buildings and improvements thereunto appurtenant;

Now: Therefore, the parties hereto enter into the following covenants and agreements, to-wit:

1181 1. The Lessor, for and in consideration of the rents, royalties, covenants and agreements herein mentioned and specified on the part of the Lessee to be paid and performed, has leased, demised and let, and does hereby lease, demise and let unto the said Lessee all of the property above described and all of the rights and privileges of the Lessor in and to all of said property for the term of thirty (30) years from July 1st, 1909, except as to that portion of the land above described which the Lessor holds under lease expiring May 31st, 1920, together with certain miners' houses and warehouses situated on said land and upon the south half of the south half of Section thirty-one (31) and the south half of south half of Section thirty-two (32), Township five (5) North, Range thirty-one (31) west, including the right to use said miners' houses and warehouses in connection with the mining of coal on said leased premises for the period of this agreement, a schedule and inventory of all of the mine equipment and other property covered by this lease, which is to be returned by the Lessee upon the termination of this lease, which inventory is dated January 1st, 1907 and is attached hereto and marked "Exhibit A" and made a part hereof.

Provided, that the Lessor reserves the right to remove said miners' house and other buildings from the land in said Sections thirty-one (31) and thirty-two (32) at any time when it may desire to mine the coal on or under said land, and to move the same to some other convenient place upon the land hereby leased.

2. As a consideration for the said lease, the said Lessee hereby covenants and agrees to pay to the said Lessor a rent or royalty equal to seventeen and one-half cents (17½¢) per ton on each and every ton of two thous-
1182 and (2000) pounds of coal mined or dug from any of the demised premises; Provided, that the said rent or royalty shall amount to not less during any one year than the minimum prescribed hereinafter for said period.

Said minimum royalty shall be based upon an anuual minimum production of fifty-five thousand (55,0000) tons at seventeen and one-half (17½¢) per ton.

The minimum royalty for the year commencing July 1st, 1909, and for each and every year thereafter during the period of this lease, shall be nine thousand six hundred and twenty five Dollars ($9,625) payable in quarterly payments in advance, each quarterly payment being Two thousand four hundred and six and 25/100 Dollars ($2,406.25). The first payment to be made July 1st, 1909, and the other payments shall be due on the First day of each quarter thereafter, and shall be payable not later than ten (10) days from the beginning of each quarter. The obligation, however, to produce this minimum tonnage shall be subject to abatement in case there is a general strike in the district where said mines are situated, the abatement from said cause to be apportioned according to the length of said strike.

The Lessee also agrees to pay to the Lessor seventeen and one-half cents (17½¢) per ton of two thousand (2000) pounds on all coal mined or dug from the demised premises in excess of said fifty-five thousand (55,000) tons during each and every year for the period of this lease. The amount of royalty on such excess production for any one year during the period of this lease, at the rate of seventeen and one-half cents (17½¢) per ton shall be due on the First of the second quarter of the next succeeding year, and shall be payable by the Lessee to the Lessor within ten days after the first of such quarter; Provided, That the last payment of royalty for such excess production, if any,
1183 shall be made within three (3) months after the thirty (30) year period of this lease. Should the amount of coal mined in any one year not amount to the minimum tonnage of fifty-five thousand (55,000) tons herein provided for, it is agreed that the Lessee shall have the privilege of mining, free of royalty during the next succeeding year, such excess of said fifty-five thousand (55,000) tons as will make up the deficiency for the previous year, it being the intent of the party to this lease that the royalty on the minimum tonnage provided for shall be paid quarterly in advance at the beginning of each and every quarter of each and every year during the life of this lease, and that the settlement for deficiency or excess tonnage under or over the minimum tonnage shall be made the subject of a separate and distinct settlement.

It is further agreed by and between the parties hereto that the total production by the Lessee from the demised premises during the first ten (10) years of this lease shall not be less than the total production from Mine No. 1 of the Mammoth Vein Coal Company of Sebastian County, Arkansas during the [samd] period and that if the production from the said Mammoth Vein Coal Company's Mine No. 1 shall for any one year during said ten (10) years exceed the production from the premises hereby demised, then and in that case the Lessor shall give the Lessee notice of such excess production, and if at the end of the next succeeding year there shall still be an excess production by said Mine No. 1 over that from the demised premises, counting from the date of this lease, the Lessee shall pay to the Lessor Seventeen and one-half cents (17½¢) per ton upon one-half of such excess production, provided that if at the end of the next succeeding year, after such payment, the total production from the demised premises shall equal or ex-
1184 ceed the production from said Mine No. 1 counting from the date of this lease, then the Lessor shall give the Lessee credit for such payment on the next accruing royalties.

3. The Lessee covenants and agrees that the mines on said lands shall be worked continuously so far as the general demand for coal warrants; that is to say that they shall be worked the same as other average mines controlled by the Lessee or by other operators on the line of the Midland Valley Railroad.

4. The Lessee agrees at the termination of this lease or agreement to return the plant and property pertaining to said mines and leased premises to the Lessor in as good condition as when received, reasonable wear and tear excepted.

5. The Lessee shall have the use of all machinery, material, and equipment of all kind now on and in said mines, but shall maintain and renew the same at its own cost and expense, and shall at its own cost and expense provide all new machinery and equipment of developing and operating said mines during the life of this lease, as herein provided, and all new machinery, pit cars, steel rails, or other equipment paid for and installed by the Lessee shall be its property, and at the expiration of this lease the Lessee shall have the right to remove the same within a reasonable time thereafter.

6. The Lessee is hereby given the privilege of abandoning said Mine No. 3 so far as hoisting coal through the present slope is concerned whenever the workings are connected with

those of Mine No. 4, so that the coal mined in said Mine No. 3 can be hoisted through Mine No. 4 shaft, provided the Lessee shall make proper provision to prevent water from said Mine No. 3 coming into the workings of Mine No. 4; Provided, the Lessee shall have the right to handle the water of Mine
1185 No. 3 through Mine No. 4; and in such case whatever machinery or property connected with mine No. 3 which cannot be utilized by the Lessee in the operation of said Mines shall be delivered back to the possession of the Lessor for whatever disposition it may desire to make of the same.

7. The Lessor agrees to keep all insurable property in connection with said mines insured, at the cost, however, of the Lessee, and the Lessee agrees that the Lessor may make bills upon it for such insurance, which the Lessee agrees to promptly pay; and in case of fire the Lessor agrees to collect the loss from the insurance company or companies, and to pay the same to the Lessee, all of which sums, however, shall be used by the Lessee to replace the property burned or destroyd by such fire.

8. The said Lessee hereby retains and reserves the right, and the Lessee hereby covenants that the said Lessor shall have the right by its officers, servants, agents, engineers at all times to enter into and upon the said premises, both on and below the surface and to inspect examine and make surveys thereof, and the sale Lessee doth covenant and agree to accurately survey, not less frequently than once in every six (6) months, all new mine workings, entries, air courses, slopes, planes, shafts, and rooms, and to plat the same on a map to a scale not less than two hundred feet to one inch, and to furnish the Lessor, not less frequently than once in every (6) months, with an accurate copy of said map.

9. It is expressly understood that one of the purposes of this lease is to secure from the leased land the maximum proportion of all the coal contained therein; and to accomplish this end, among others, the Lessee hereby expressly agrees to conduct the operation of the mine or mines on the
1186 premises hereby demised in a manner calculated to insure the eventual mining of the largest amount of coal from the entire premises hereby demised, and for the purposes of assuring this end to the Lessor with greater certainty, the Lessee agrees to maintain in good working order all entries and gangways, air courses, slopes, shafts, and planes until the coal between the faces of any of the said entries, gangways, air courses, slopes, shafts, or plans may be directed is mined out as fully as it can be mined out by any first class mining

methods, or until the Lessor gives its consent in writing to the abandonment of any of the same. And the Lessee agrees to promptly repair any damage that may occur to any of said workings.

It is expressly understood that all workings under ground shall be paid out and conducted in a thorough and substantial manner, and in accordance with first class methods, and expressly with a view to the fullest possible development of the demised premises, and that the Lesee shall maintain pillars in the mine or mines of dimensions fully sufficient to support the roof and shall not draw said pillars until such time as the coal between them and the boundary of the demised premises is mined out.

The Lessee shall maintain all buildings and machinery, and other appurtenances to the mines, in good condition and working order, and the Lessee further covenants that it will not do or permit, or suffer to be done, any damage or injury to the said premises, property and appurtenances.

The Lessee hereby expressly agrees that it will at all times keep the workings of the mines operated by it on the said premises free from water and from dangerous gases.

10. The said Lessee hereby agrees to keep inviolate all and singular the duties imposed by the laws of the State of
1187 Arkansas regulating the mining of coal, and agrees to protect the Lessor against the violation of said laws by said Lessee.

11. As a part of the consideration of this lease hereby covenants and agrees to assume all liability in the operation of said mines and hereby agrees to protect and save harmless the said Lessor from any claim, damage, personal injury, or death which may occur to any person or persons by reason of the negligence of the said Lessee or its servants and employees in the operation of said mines and to assume all the legal liability of an independent contractor or operation.

12. The said Lessee further covenants and agrees that it will not at any time during the term of this lease assign, either voluntary or involuntarily, sub-let or demise the said premises or any part thereof, to any person or persons or corporation whatsoever, without the written consent of the said Lessor, under its seal, first had and obtained; but said Lessee may erect necessary dwellings for its employees upon the tract as aforesaid leased for, in part, that purpose, and may sub-let such dwellings to its employees while they remain in the ser-

vice of said Lessee, and may also sub-let any of the buildings covered by this lease.

13. And the said Lessor, if it so elects, shall have the right to weigh all coke loaded on cars before the same are shipped, and the said Lessee covenants that the said Lessor may weigh all said coal and coke before shipment, without let or hindrance, from all the operations of the said Lessee; and should any dispute arise as to the accuracy of the scales on which the coal and coke are weighed either by the said Lessor or the said Lessee, then such dispute shall be settled by testing said scales by Government weights.

1188 The said Lessee further covenants and agrees to furnish within ten (10) days from the last day of every calendar month, at the office of the Lessor on the form furnished by the Lessor for the purpose, a report properly authenticated, showing the coal mined or dug and used from the said mines during the preceeding calendar month, and if any coal shall have been taken from the said premises and wasted, or left as slack coal in the mines, and not weighed and accounted for, the quantity of the same shall be ascertained, an account rendered for the same and payment made at the rate above named. And the Lessee covenants that it will keep a book or books of account and correct records of the mining and shipping of coal and coke, and that said book or books and records shall be open to the inspection of said Lessor and their agents or attorneys for the purposes of comparing and verifying the accounts rendered.

14. The said Lessee covenants and agrees to pay all taxes that may be assessed against the demised premises and the improvements thereon and upon the coal mined or coke manufactured during the continuance of this lease, after the first day of July, 1909.

15. Any difference as to the proper manner of mining or as to the quantity of available coal to be left standing before abandoning any entry, room, shaft, working, or other opening, or any difference whatsoever which may arise as to the method of skillfully conducting said mining operations, and any other matter herein specifically referred to arbitrators, or any question arising under this lease or as to the construction thereof, shall, upon motion of either party to this lease, be referred for settlement to a board of arbitrators, which shall be constituted and chosen as provided in this para-
1189 graph; or should any dispute or disagreement arise between the parties hereto touching any matter or thing to be done and performed by either party hereunder, the same

shall be determined by arbitration in the following manner. The party alleging such non-performance or breach by the other or desiring any question hereunder submitted to arbitration shall give ten (10) days' notice in writing to the other party of the appointment of an arbitrator to act hereunder, and thereupon it shall be the duty of the party so notified to appoint within five (5) days an arbitor to act with the one thus appointed. In the event of a failure to appoint within five (5) days, the other party may appoint one in his stead. In the event that the two thus appointed shall fail to agree, they shall select a third party, and in the event of their failure to agree on the selection such third member, within five (5) days after their failure to agree as to the matters in dispute, the third member may, on application be appointed by the Judge of the United States Court for the Western District of Arkansas. The Decision of the majority of the three arbitrators when finally settled shall be binding and conclusive upon the parties hereto.

16. The said Lessee hereby covenants and agrees to ship all coal and coke mined from or made upon the demised premises to or towards it market or destination by the Midland Valley Railroad, and such connecting lines or line as the Midland Valley Railroad Company shall prefer and select for this purpose, and to more fully effectuate this, the said Lessee does hereby grant to the said Lessor, and to its successors and assigns, the right to consign or route all coal and coke so mined and made and delivered to said Midland Valley Railroad Company for shipment by said Lessee by whatever line or lines of railroad the said Railroad Company, or its successors
1190 and assigns, may prefer or select; Provided Always, that the said Lessee shall not by such routing be subjected to a higher freight rate on such coal or coke then prevails at the time or any other equally available route; Provided Further, that the initial carrier for all such coal and coke shall be said Midland Valley Railroad Company, or its successors or assigns, and the said Lessee covenants and agrees that for every tone of coal or coke shipped otherwise than as herein provided, it will pay to said Midland Valley Railroad Company, its successors or assigns, as liquidated damages for a breach of contract, the sum of Twenty-Five (25) cents in the case of coal and forty (40) cents in the case of coke.

17. The Lessor agrees to furnish the Lessee railroad cars at the tipple of the Lessee in sufficient numbers so that the said Lessee shall be able to operate its mines not fewer hours per month than ninety (90) per cent of the hours per month the mines are operated or any other person, fir, or corpora-

tion on the Midland Valley Railroad in Sebastian County, Arkansas, including the mines, if any, of the Lessor. Cars of foreign roads shall be held to apply as well as cars of the Midland Valley Railroad, its successors or assigns.

18. It is further covenanted and agreed by and between the parties hereto that in the event that the said Lessee shall delay or refuse to comply with the terms of this lease and to keep and perform the covenants and agreements on its part herein stipulated and provided for, then the said Lessor shall, at its option, after sixty (6) days' notice to the Lessee, have the right to re-enter upon the demised premises in as full and complete possession as if the term of this lease were fully performed and ended by limitation; and that in case the Lessee shall restore to the Lessor said property in as good con-
1191 condition as it was on the date of this contract, ordinary wear and tear excepted, and shall forfeit to the Lessor, as liquidated damages, whatever machinery, property or other improvements have been placed upon said land by the Lessee in the nature of permanent fixtures or that would, under the law, become part of the realty.

19. All of the covenants and agreements, terms and conditions of this lease and contract shall inure to the benefit of, and be binding upon the successors and assigns of the Lessor, and the successors and assigns of the Lessee and each of them.

20. It is agreed by and between the parties hereto that upon the execution and delivery of this agreement, the lease between the said parties covering the same property, of date December 19, 1906, shall be terminated and ended, and thereafter have no further force and effect.

In witness Whereof, the Lessor and Lessee have caused this instrument to be executed by their proper officers, thereunto duly authorized, and attested by their corporate seals, under authority of their respective Board of Directors, this the day and year first above written.

(Seal) CHEROKEE CONSTRUCTION COMPANY

By C. E. Ingersoll, Vice-President

Attest: H. E. Yarnall, Secretary.

(Seal) PRAIRIE CREEK COAL COMPANY

By F. Bach, President

Attest: Ransom Gulley Jr., Secretary

Commonwealth of Pennsylvania
County of Philadelphia—ss.

Be it remembered, that on this day came before me, the undersigned, a Notary Public, duly commissioned and acting, within and for the said County of Philadelphia,
1192 C. E. Ingersoll, Vice-President and H. E. Yarnall, Secretary, of the Cherokee Construction Company, a corporation, to me personally well known to be such Vice President and Secretary, and acknowledged that they had executed the foregoing instrument as such Vice President and Secretary, for and on behalf of said corporation, as its and their free and voluntary act and deed, for the purposes and consideration therein mentioned and set forth.

Witness My hand and notarial seal this 28th day of July, 1909.

My Commission expires February 2, 1910.

(Seal) OSCAR H. PRICE
Notary Public

State of Arkansas
County of Sebastian—ss

Be it remembered, that on this day came before me, the undersigned, a Notary Public duly commissioned and acting within and for said State and County, F. Bache and Ransom Gulley Jr, to me personally well known to be the President and Secretary, respectively, of the Prairie Creek Coal Mining Company, a corporation, and acknowledged that they had executed the foregoing instrument as such President and Secretary for and on behalf of the said corporation, as its and their free and voluntary act and deed, for the purposes and considerations therein mentioned and set forth, and I do so certify.

Witness my hand and notarial seal, this first day of July, 1909.

(Seal) C. H. FINLEY, N. P.

My Commission expires May 16, 1910.

Filed for Record this 23rd day of August, 1909, at 8 o'clock A. M.

CLAUDE HOFFMAN,
Clerk and Ex-Official Recorder.
By R. A. Harper D. C.

1193 State of Arkansas,
County of Sebastian,
Greenwood District.—ss.

I, R. A. Harper, Clerk of the Circuit Court and Ex-Official Recorder within and for the County and State aforesaid, do hereby certify that the annexed and foregoing pages contain a true and perfect copy of the Lease between Cherokee Construction Co. and Prairie Creek Coal Mining Company, as therein set forth and as same appears in Deed Record 38 at page 598, of the records in the office of the Circuit Clerk at Greenwood, in the Greenwood District of Sebastian County, Arkansas.

Witness my hand and seal of said court, this 19th day of September, 1917.

(Seal)

R. A. HARPER, Clerk,
By Pat L. Smith, D. C.

Q. Now, will you read sub-division 5 of the exhibit I just handed you, Defendants' Exhibit 3?

A. "The Lessee shall have the use of all machinery, material, and equipment of all kind now on and in said mines, but shall maintain and renew the same at its own cost and expenses, and shall at its own cost and expense provide all new machinery and equipment of all kinds and character, and shall bear the whole cost and expense of developing and operating said mines during the life of this lease, as herein provided, and all new machinery, pit cars, steel rails, or other equipment paid for and installed by the Lessee shall be its property, and at the expiration of this lease the Lessee shall have the right to remove the same within a reasonable time thereafter."

Q. What new stuff did you install up to that period?

1194 A. Under the first lease, which I think this is a continuation or renewal of, we had installed more or less material. I cannot tell you how much. When we took the mine over it was a rattle-trap affair, and we went to work at once to put it in shape.

Q. You say it was a rattle-trap affair, what do you mean by that?

A. I meant the equipment was very poor and inadequate.

Q. Have you a list of the equipment that you took over?

A. I think that in all probability that list of the equipment was attached to the first lease. That was the custom, and I only say that it is probable because that was the custom, and the natural thing to do.

Q. What particular property did you install after the execution of this second lease on July 6th, 1909?

A. Well, a great part of it was development work.

Q. I am not talking development work, I am talking about machinery and appliances and equipment.

A. We put in quantities of steel rails, added pit cars, a large number of pit cars, and purchased additional mules; provided a water supply line from the creek to the mine; built water tank; put in new hoisting engine; built a new tipple; put in new shaker screens, and added a boiler or two; put in a blowing system to facilitate the making of steam; we put in two large pumps; put in a cast iron discharge line from the bottom of the shaft to the top of it; I think we put in a new set of track scales; that we pretty much built the mine again.

Q. Now, whose property was this you were putting in there, to which one of these companies did it belong?

A. Some of it was put in by the Prairie Creek Coal
1195 Mining Company.

Q. Name the items of machinery and stuff that the Prairie Creek Coal Mining Company installed?

A. It put in some rails.

Q. How many? A. About 50 or 60 tons.

Q. When?

A. From time to time as the mine extended. It put in some pit cars.

Q. When? A. From time to time.

Q. About when, can you name it?

A. No, I cannot, Mr. Covington, because those were things that we generally brought along from month to month and year to year as they were required.

Q. And what else did you put in, and who did it belong to?

A. I think we built a new tipple.

Q. New tipple? A. Yes, sir.

Q. Who constructed the tipple? A. We did.

Q. We, what was we?

A. The Prairie Creek Coal Mining Company, in that instance. I think the Kali Inla Coal Company furnished it.

Q. Was the tipple paid for out of the funds of the Prairie Creek Coal Mining Company?

A. Partially paid out of the insurance that the company collected from the old tipple burning down. I do not refer the fire of July 4th.

Q. You had more than one fire down there?

A. Yes, sir.

Q. How much insurance did you collect off of the first fire? A. We didn't collect any, I don't think.

Q. You used it to rehabilitate the property?
A. The insurance went to the Lessor, or the owner of the land, the Cherokee Construction Company.
Q. The Cherokee Construction Company?
A. Yes, sir.
1196 Q. Now is it not a fact that the Cherokee Construction Company used the money paid by the insurance company and rebuilt that tipple entirely?
A. No, sir, they did not.
Q. How much did they lack?
A. We built the tipple, and they turned over to us the money that they had collected on the insurance, as far as it went, toward building the new tipple.
Q. How much did they turn over to you?
A. Whatever the insurance was, as far as I can recollect, that was their agreement to do that, and I am sure they did it.
Q. I am sure they did. You are president of that company, and cant you remember how much they gave you?
A. No, five or six or seven years afterward I cannot, Mr. Covington.
Q. Will the books of the company show?
A. No doubt they will.
Q. Did they turn over this money to you with the understanding that the tipple constructed with it was to belong to the Prairie Creek Coal Mining Company?
A. My impression is, or recollection is, that as far as that money went, it belonged to them, and the rest belonged to us, under the terms of the lease.
Q. And did you have any new agreement with them other than the one you referred to?
A. I dont recall whether we did or not. There might have been some letters or correspondence about the payment to us of the insurance that they collected.
Q. Now, how much money did the Prairie Creek Coal Mining Company invest in a new tipple, that you referred to?
A. I dont recall.
Q. Mr. Bache, is it not a fact that the Cherokee Construction Company paid every dollar toward the reconstruction of that property, taken out of the insurance, and
1197 it was re-insured under the same terms as before? That is, that the money was to go to them, the Prairie Creek Coal Mining Company, but they were to use it in rehabilitating the property?
A. No, the money received for the insurance on the old tipple did not cover the cost of the new tipple.
Q. Can you state how much it lacked, approximately?

A. I would rather not approximate it, because if there is no objection, the books will show with a greater accuracy than I can remember.

Q. Did you assess the personal property of the Prairie Creek Coal Mining Company in 1910?

Mr. McDonough: In the matter of assessments and taxes, I dont know what rule your Honor will adopt, but the Supreme Court of Arkansas, as I understand the rule, has held that assessment of property on the tax books is not admissible to show value. If this evidence is for the purpose of showing value, then under the rule of this state it would be inadmissible.

The Court: I would ask for what purpose this question is asked?

Mr. Covington: I am offering it to show that he assessed it, but it is not to show value; that he assessed it in that year, and that he had to swear to the personal property.

The Court: He has shown that he did not have charge of the listing of property personally for taxation.

Mr. Covington: Not in 1910.

The Court: Perhaps not that year.

Mr. Covington: This is another corporation.

The Court: Perhaps you had better show,—the court
1198 will hold that before you can show it for the purpose of value, that he had charge of the property and listed it for taxation.

Mr. Covington: Then I can ask him if he assessed it.

Q. Did you assess the personal property of the Prairie Creek Coal Mining Company in 1910?

A. Not that I remember. I didn't pay much attention to the tax matters, they were generally attended to by Mr. Denman.

Q. Who did assessed it?

A. I don't know who did in that year, but generally Mr. Denman and Mr. Finley looked after the taxes.

Q. I will ask you, by way of refreshing your memory, if you did not turn in the assessment on this yourself, and swear to it and sign it, and that you gave in $290.00 for the personal property in 1910? A. I don't recall.

Mr. McDonough: We object to that on the ground that the assessment, if made, is not relevant to show value.

The Court: No, it is not for that purpose. I am sitting here considering the scope of the testimony of this witness on direct examination, and it is not proper upon cross-examination for the purpose of suggesting value. It is a matter of discretion, and I am disposed to exercise it in favor of the defendants in this instance. The objection is overruled, with the distinct [understand] that it is not offered for the purpose of showing value.

To which ruling of the Court, the plaintiffs, and each of them, at the time duly excepted and still except.

Q. What is your answer?
A. I did answer that, I think, Mr. Covington.
Q. I didn't understand you. Mr. Bache, I will show you the lease from the Cherokee Construction Company to
1199 Prairie Creek Coal Mining Company, defendants Exhibit 3, and will ask you if the first clause in the lease does not require that you file an inventory of the property that you received from it, and attached thereto as Exhibit A.
A. That is the way this reads.
Q. Will you read that particular clause, just read it out, Mr. Bache.
A. "A schedule and inventory of all the mining equipment and other property covered by this lease, which is to be returned by the lessee upon the termination of this lease, which inventory is dated January 1st, 1907, and is attached hereto and marked Exhibit A, and made a part hereof."
Q. Where is that exhibit?
A. It is probably attached to the original contract, I don't know where it is.
Q. Why was it that you just filed this lease without filing the exhibit as provided in here? A. I don't know.
Q. You don't know?
A. I don't even know that I filed the lease, it might have been filed by the other parties.
Q. The other side?
A. I don't know whether we filed it or the lessor filed it.
Q. Have you an inventory of the property as set out in this lease that belonged to the Cherokee Construction Company? A. I think so.
Q. You think so, where is it?
A. It is probably in the company's files, the receivers files.
Q. Have you ever seen it since the day that this lease was given? A. I doubt it.
Q. You doubt it? A. Yes, sir.

Q. What connection did you have with this company?
1200 A. One of the things I had to do was to make that lease, and execute it, and look over the inventory, and not look at it again, I think.

Q. When you looked over it, was the list attached to it as provided in the clause that you have just read to the jury?

A. I can only answer that, I suppose it was, it is absolutely impossible for me to remember in 1907 exactly what papers are attached to what other papers.

Q. Where were you when this lease was executed?

A. I cannot tell you that.

Q. It was executed in Philadelphia, was it not, Mr. Bache? A. I don't know.

Q. And turned over to you there?

A. It might have been.

Q. The head of the Cherokee Construction Company lives in Philadelphia, don't he? A. Yes, sir.

Q. And you don't know where the itemized list is?

A. I just said that I supposed it was in the files of the receivers of these companies.

Q. But you do not know? A. I do not know.

Q. Where is Mine No. 1?

A. Mine No. 1 of the Mammoth Vein Coal Company?

Q. Where is that located with reference to Mine No. 4.

1201 A. Mine No. 1 of the Mammoth Vein Coal Company is located about 6,000 feet southwest of No. 4.

Q. I will ask you if the list that the clause here provides shall be attached to this lease executed to the Prairie Creek Coal Mining Company on July 1st, 1909, by the Cherokee Construction Company, defendants' Exhibit 3, if that exhibit did not set out specifically the following property in Mine No. 1:

1 engine 10 x 16 complete
1 engine 8 x 12 [fouble]
1 single hooker pump 12 x 8 x 14
1 double hooker pump 12 x 7 x 12
1 M feet 5-8" rope, new
pit cars
3 boilers 4x 12 x 28" diam.
1 hoisting engine
1 boiler 2 1-2 x 9'
1 boiler shell
1 boiler 28" (in use as tank)
1 pair track scales

1 shaker engine
1 pair tipple scales
2 electric bells
3 inspirators
1 forge flue in mason work
16 pit cars
1 monkey stove
1 3′ sheave
1 6″ ell
2 6″ nipples
1 eccentric sheave.
1202 2 cages;
1 3″ drum;
1 42″ spur wheel;
2 pairs pit car trucks;
1 2″ steel pulley;
1 3″ fly wheel;
1 3-1/2″ shaft and bearings 7′ long;
1 pair shaker eccentrics and rods;
1 wood shaker screen;
2 goose-necks;
3 perforated sheets;
2 sheaves and tipple;
160 8′ props;
280 pit ties;
31 7′ props;
6 tap timpers;
1 water tank 5 x 10.

What do you say to that?

A. Did you say Mine No. 1 at the outset of that?

Q. Mine No. 1.

A. I don't know what it is. There must be some mistake, it sounds like Mine No. 4 to me.

Q. Was that in the list?

A. It sounds more like No. 4 than 1.

Q. Does it sound not like No. 4 that that is the stuff that should have been shown by the exhibit referred to in this lease?

A. It sounds like a part of the equipment of any coal mine, Mr. Covington. I don't think I can answer you. I would like to.

Q. And did you receive this property. This should have been shown, and is, if it is in existence anywhere, by
1203 the exhibit as set out in Defendants Exhibit 3.

"1 scale box kd;
1 large bench vise;

1 Armstrong drill;
1 engine governor;
1 bellows;
200 asst. bolts;
37 pit car axles 2 x 2;
23 pit car binders;
8 pit car wheels;
12 bars 1-1/2" iron 12' long;
14 1-1/2" iron 12' long;
1 1-1/4" iron 12' long;
5 boiler flues 2-1/2" long;
2 boiler flues 2-3/4" long;
3 bars 1/2" iron 4' long;
33 screen bars 16' long;
4 page chains;
32 16 x 20" 12 pound rails;
12 12" pit car wheels;
35 bars 3/4" iron 16' long;
24 bars Mammoth lump bars;
85' 3" pipe;
2 pump strainers;
3 3" bells;
1 4 x 8 nipple.

Did you get that?

A. You want to know whether I remember whether all of those items were included?

Q. You said that you passed on the list, and passed on the lease, and passed on the exhibit, and I want to know if that is not what was in the exhibit. You say you don't know where it is.

1204

A. I said I didn't know where it was?

Q. Yes, sir, you said you supposed it was in the hands of the receiver, you didn't know.

A. I will have to make the same reply that I did before, that stuff is likely to be in the list of any coal mine, and in the material around it.

Q. That would be an equipped coal mine ready for lease, or ready for operation? A. A very poor equipped one.

Q. Poorly equipped?

A. Yes, sir; there is not much stuff mentioned there.

Q. I will name a list of his property at Mine No. 1, and as shown by the exhibit and set out in the lease, referred to as Defendants Exhibit 3.

A. May I ask, in order to save time—we never leased a mine known as No. 1 of the Cherokee Construction Company.

Q. I am not asking you that. I am only asking you if this property was not set out and located at this other mine

1 4" sleeve;
500 lbs. scrap iron;
1 coal fork;
302' 12 lb. rails for boiler room;
234' 12 lb. rails on tipple;
3 frogs and switches on tipple;
1 pit car frame without wheels;
1 2" ell;
2 2" nipples;
1 2" flange union;
1205 1 1-1/2" Globe valve;
6 11-2" nipples;
1 1-1/2" flange union;
1 1-1/2" gate valve;
2 1-1/2" ells;
1 1-1/2" by 2 bushing;
1 2" tee;
1 2" plug;
1 2 x 2-1/2" bushing;
1 2-1/2" ell;
1 2-1/2" flange union;
59' 2-1/2" pipe. That is the steam line and fittings for shaker engine. Did you get that in Mine No. 1?

A. I don't recall ever getting a lease, or taking any property over at Mine No. 1.

Q. Reading further, from the property you received, I will ask you if you did receive, as shown by the same exhibit referred to, and attached to Exhibit 3 the following:

"5 3" globe valves;
16 3" nipples;
1 3" flange union;
2 3" ells;
5 3" tees;
3 3" safety valves;
8 1-1/4" ells;
6 1-1/4" tees;
10 1-1/4" globe valves;
6 1-1/4" unions;
4 1-1/4" valves;
3 water columns;
1206 1 inspirator;
3 steam guages;

40′ 2″ pipe;
25′ 1-1/2″ pipe;
3 2″ ells;
3 2″ tees;
1 2″ flange union;
1 2-1/2″ flange union;
2 2″ Globe valves;
8 2″ nipples;
1 2-1/2″ nipple;
1 2 x 2-1/2″ bushing;
1 2 x 2-1/2″ bushing;
1 stack car;
2 stacks 2 x 60′;
1 scraper;
1 slash bar;
1 clinker hook;
1 flue squab and staff;
60′ 4″ exhaust pipe;
2 2″ ells;
1 2″ tee;
1 2″ union;
1 2-1/2″ threddle valve;
5 2″ nipples;
2 2-1/2″ nipples;
1 pint lubricator;
4 3/4″ Globe valves;
8 3/4″ nipples;
2 3/4″ ells;
1207 100′ ¾″ pipe;
2 ¾″ Globe valves;
2 ¾″ ells;
1 ¾″ union;
4 ¾″ nipples;
35′ 1″ pipe;
100′ 1″ pipe;
2 1″ Globe valves;
1 1″ ell;
1 1″ union;
85′ 1-¼″ speaking tube in shaft;
90′ 2″ pipe line run down shaft;
165′ 2″ pipe boiler down air shaft;
1 2″ flange union;
3 2″ ells;
100′ 4″ discharge pipe—down air shaft;
100′ 5″ discharge pipe—down air shaft;
200′ 2″ steam pipe, air shaft to pump (inside);
5′ 1″ iron rod;

1 eccentric strap;
1 12" spring for steam end;
1 mule lot 3 wires and 2 boards, about 100 x 150 ft;
1 old small boiler and Henderson slope;
85' 1-¼" hemp [rompe];
1 2-man windlass;
100' 2" pipe;
1 2" ell;
1 2" throttle valve;
1 2" Globe valve;
1 2" union;
1208 1 1" union;
1 3" whistle;
3 1" trees;
8¾" nipples;
1 1-½" ell;
1 steam gauge;
5 3-¼" steam nipples;
1 ¾" union;
1 1" tee;
1 water column;
1 7 lb. inspirator;
2 1" Globe valves;
6 1" nipples;
2 1" ells;
1 1" check valve;
1 1" tee;
1 iron water tank boiler shell 30" by 9' 6";
1 scraper;
12' 12" stack."

How about that, did you hear it?

A. I heard what you read, will you repeat your question and see what it is you want me to answer.

Q. I named, them, and I want to know if in passing on that, if that is your recollection of what included the items mentioned. A. In connection with what?

Q. Exhibit 3, Exhibit A to Exhibit 3 of the defendants. That is the inventory referred to in that list.

A. The Prairie Creek Coal Mining Company from the Cherokee Construction Company? Is that the list that you refer to?

Q. That is the list I am talking about. A. Yes, sir.

1209 Q. That is the one we are talking about.

A. And this is the exhibit you think is attached to that list?

Q. And I am asking you if those items were not included in the list. A. I don't think they were.

Q. What makes you think they were not?
A. Because I don't recognize an air shaft at No. 4 mine, of 100′ depth.
Q. Would that keep you from getting the property or that special equipment?
A. I am unable to answer or follow you along. I don't remember those items.
Q. Where is Mine No. 2?
A. I don't know where Mine No. 2 is.
Q. You don't know that? A. Let me suggest—
Q. (Interrupting.) Where is Mine No. 7?
A. I think I have you now. I think you are not reading that Prairie Creek list at all, but the list of the Mammoth Vein Mine No. 6, up in the Montreal district, up near Midland.
Q. I am asking you what you know about it, not asking you to guess at what I am doing, and you can just answer the questions.
A. I don't know, I am entirely confused as to what you are reading.
Q. Where is Mine No. 3?
A. Mine No. 3 was adjoining Mine No. 1, if you mean Mine No. 3, as we knew it, of the Prairie Creek Coal Mining Company, it was about 3000 feet from No. 4 shaft of the Prairie Creek Coal Mining Company. There were several mines No. 3 in Sebastian County.
Q. I am talking about the property that you took over, that is the Prairie Creek Coal Mining Company took over from the Cherokee Construction Company, under the
1210 lease here, dated July 1st 1909 or rather obtained it under that lease, in which it states that an inventory is attached as Exhibit A, which we have offered here as defendants Exhibit 3, and I am asking you if you did not get this particular property at that time, and that was shown by the exhibit, that does not appear with this list here to it.
A. I don't think that inventory that you have been reading me was the inventory that was attached to the exhibit. I don't think so, I would have to go over it more carefully than listening to you read a lot of hardware.
Q. It would not make any particular difference where it was located, if you took it over, whatever mine took it.
A. I don't know what you mean, how you want me to reply. What is the point to it?
Q. Now, you say that Mine No. 3 is located, and was operated in conjunction with Mine No. 4.
A. Not at the time that was taken over.
Q. But you did afterwards? A. Yes, sir.

Q. How long after this lease was executed now, before you [begn] to operate it, before you began to take the coal that should have gone out to No. 3, and taken out through the shaft of No. 4? In what year did you begin that operation?

A. Did we complete the connection between 3 and 4?

Q. Yes.

A. I don't recall what year. It took two or three years after we first took the property.

Q. Two or three years after July 1st, 1909? A. 1907.

Q. 1907? Did you commence in 1910?

A. I cannot answer off-hand.

Q. At the time that you went over the lease, I will ask
1211 you if you did not get this particular property, located at Mine No. 3.

"2 Danville boilers and stacks, 100 H P 60" by 28';
2 lbs. Garlock packing;
1 4" ell;
1 2 x 5 nipple;
1 steel tray square;
1 wheelbarrow;
1 brass oiler;
1 coal shovel;
1 boiler car;
1 Danville engine 18 x 28;
1 telephone;
1400' 1" hoisting rope;
8 ½" Garlock pump packing;
12 lb. hemp packing;
1 lot junk;
2 blankets;
1 gal. Linseed oil and can;
3 cells, dry battery;
4 cells, wet battery;
1 dirt pick;
3 3" ells;
1 lubricator;
100 lbs. 1" rope;
100 lbs. 1" rope;
1 4 x 6 perforated sheet;
1 Rumsey shaker engine 7 x 12;
25' 8" 4-ply rubber belt;
1 shaker screen;
1212 40 bars for gravity screen 16' long;
1 weigh basket;
5 ⅛" 3 x 4 flat sheets;
1 4' sheave-on tipple;
1 3' sheave-on tipple;

294 pieces 1 x 8 x 10 lumber;
1 Monarch scale on tipple;
47 pit cars;
1 pit car, broken;
941 ties;
682 props 6 to 9′;
175 cap boards;
1750′ tipple timber;
1 110 gal. oil tank;
260′ 3″ pipe;
280′ 5″ pipe;
2 3 x 6 perforated sheets;
2 pit car binders;
3 pcs. lumber 2 x 6 x 10;
1 lot wooden blocking;
3 sets wagon harness;
1 set pit car harness;
1 hay fork;
34 pit cars (inside pit);
84 boiler flues 3-½ x 12;
1 Armstrong drill and 2 points;
5 6″ nipples;
4 3″ nipples."

Did you get them? A. I don't recall.

Q. Now I will name over these items in House 122 at Camp No. 3.

1213 "33 pairs 10 x 14 x 8 light sash;
41 doors 2′ by 6′ 6″;
2 rim locks and knobs;
15 rim locks and keys;
51 butts 1-¼ x 3;
550 1-½ x 2-½ Fish plate bolts;
24 kegs 10 penny nails;
3 kegs 8 d nails;
5 ¾ kegs 3 d nails;
2-½ kegs 6 d nails;
24 sash locks mortise;
876 Fish plates".

Did you get that?

A. If that was the list attached to the lease that you referred to, no doubt we got it. I have no memory at this time of getting those particular nails and items you mentioned, one by one.

Q. Do you remember of any items named there that you got?

A. I remember the boiler and hoisting engine at No. 3. There was a boiler and hoisting engine at No. 3, I remember those items.

Mr. Warrum: If the Court please, these lists are very long and are a very important part from our point of view, because of the question of title arising from them, and we would like to defer further cross-examination, because the witness is answering from the questions that are submitted, that he doesn't know that it is all right, and it is perhaps true that we can find from their books a list with which he is acquainted, and we would like the opportunity to cross-examine him later, after we have examined the books.

The Court: I think that is [entitrely] reasonable, and
1214 it may expedite matters some also.

Mr. Warrum: It will expedite matters.

The Court: I think so, do you want to continue your redirect examination now?

Mr. Warrum: We want to continue cross-examination, but not on this point.

The Court: Very well.

By Mr. Covington:

Q. Mr. Bache, the Mammoth Vein Royalty Company, one of the plaintiffs in this case,—where did it [operte] a mine in this state? A. Nowhere.

Q. Nowhere? Where was its property located?

A. About 6000 feet southwest of No. 4 shaft.

Q. Of what did it consist? A. 200 acres of land.

Q. 200 acres of land. A. Containing coal in taut.

Q. Any mine located on it?

A. The mine of the Mammoth Vein Coal Company was located on it.

Q. How far from No. 3? A. About 3000 feet.

Q. About 3000 feet. When was the mine located on that particular tract?

A. About 1904 or '05, I think the mine was started.

Q. Who operated it?

A. The Mammoth Vein Coal Company was the first company that operated it.

Q. The Mammoth Vein Coal Company? A. Yes, sir.

Q. When? A. In 1904 or '05, I think we started.

Q. When did it cease to operate it?

A. It ceased to operate that I think on July 17, 1914.

Q. Was that mine in operation on July 17th, 1914?

A. No, it went out of existence at that time.
Q. How long since it had been in operation?
A. An attempt was made to operate it in May or June or July, 1914.
1215 Q. Who made that attempt?
A. The Mammonth Vein Coal Mining Company.
Q. On what day in July?
A. I don't recall the day, I was not there that day.
Q. What was the capacity of that mine?
A. About from four—its capacity I would say would be about 1200 tons a day, its maximum production, however, was about one-half of that.
Q. How much were you producing from this particular mine when it ceased operation?
A. Along in the year 1913 and '14, I think it was running about four or five hundred tons a day.
Q. How many men were working at this particular mine when it ceased to operate in July 1914?
A. There were no men operating there in July 1914.
Q. When were they there?
A. Some men were sent over there to work in June.
Q. Who was sent over there?
A. I don't recall, I was not there, as I stated.
Q. Did you send them?
A. They were sent under my general direction.
Q. How long had it been since it was in actual operation up to that time?
A. In the early spring of 1914.
Q. What did you call that mine?
A. Generally call it No. 1, ordinarily.
Q. It is yours, you ought to know.
A. I generally called it Mammoth Vein No. 1, or No. 1.
Q. Are you talking about what they call the Dallas Mine?
A. No.
Q. Where is the Dallas Mine located with reference
1216 to the Mammoth Vein Royalty Company Mine, called No. 12? A. About a mile southwest.
Q. Was it in operation in 1914? A. No.
Q. How long had it been since it produced coal?
A. I don't recall off-hand.
Q. How many years, if in years?
A. I don't know when that mine was operated. It was a mine we generally leased to other people to operate.
Q. 1912 was the last operation of that mine, was it, Mr. Bache? A. I don't know.
Q. By way of refreshing your memory, did you not lease that to some fellows down there and they operated it awhile,

they failed to make good, and went off owing several thousand dollars to the miners?

A. I cannot say yes or no, I think though it was operated after that, if you simply want the information, I can refresh my memory and give you accurate answers to almost every question you have asked me.

Q. I will try to refresh your memory as we go along. You were first appointed receiver in this case?

A. Yes, sir.

Q. You swore to the first complaint? A. Yes, sir.

Q. You stated in there that the damage to this particular company was $4000.00? A. What company is that?

Q. The Mammoth Vein Royalty Company.

A. If I did so it is correct, the Mammoth Vein Royalty Company, that has never operated a mine, I said that some time ago.

Q. The Mammoth Vein Coal Company operated it?

A. The Mammoth Vein Coal Company operated it, and paid royalty to the Mammoth Vein Royalty Company.

1217 Q. And all it lost was royalty of $4000.00?

A. I didn't recall about that.

Q. Did the Mammoth Vein Coal Company owe this $4000.00 in royalty to the Mammoth Vein Royalty Company at the time you say it ceased operation?

A. I think very likely that it did owe royalty at that time.

Q. Will your books show?

A. Yes, sir, the books will show.

Q. What were the extent of the holdings of the Mammoth Vein Royalty Company in 1914?

A. You mean what property it owned?

Q. Yes.

A. It owned 200 acres of land, and whatever was owed it by the Mammoth Vein Coal Company, if anything, for royalty, and what else I don't know.

Q. Then this $4000.00 item of damage, would that include in there rights that it had in any other property aside from the royalty as stated here?

A. I don't know without looking at the complaint and refreshing my mind as to what that item is. I have not it befor my mind.

Q. You have been refreshing your mind for a good long while, you swore to the original complaint, and have had it in your possession ever since?

A. I have not the original complaint before me.

Q. You said that $4000.00 in royalty had been lost, now, did that include anything besides royalty?

A. The statement here is that we claim $4000.00 royalty lost, it was either royalties lost because they had not been paid, or royalty that they expected to be paid. It didn't lose anything but royalty.

Q. Which was it, expectancy in the future, or what it actually lost?

1218 A. I don't know what they did say there.

Q. Did it own any personal property other than the lease?

A. I think it probably held the notes of the Mammoth Vein Coal Company for royalty unpaid, if there were royalties unpaid.

Q. I hand you what purports to be one of the power of sales, executed July 3rd, 1914, by you as president of the Mammoth Vein Royalty Company, to H. C. Parmelee, Trustee, for the benefit of the McAlester Fuel Company, for $21,000.00,—

Mr. Warrum (interrupting): Has it been identified or marked by the stenographer?

Mr. Covington: I will have it marked.

A. Now, what was the question, Mr. Covington?

The Court: We will at this point take our customary five minutes recess.

(Recess was here taken of five minutes.)

1219 Q. Answer the question, Mr. Bache.

A. The mortgage with power of sale on what land?

Q. I did not mention any land: I asked you if you executed that instrument?

A. Yes, I executed that instrument.

Mr. Covington: I offer it as Exhibit No. 4 of defendants.

Said Exhibit 4 is in the words and figures, following, to-wit:

"Mortgage Record 24 Page 198.

Mammoty Vein Royalty Co.,
To Mortgage With Power Of Sale.
H. C. Parmelee, Trustee.

State of Arkansas
County of Sebastian—ss

Know All Men By These Presents:

That the Mammoth Vein Royalty Company, a Corporation organized under the laws of the State of Arkansas, mort-

gagor, being thereunto duly authorized by a resolution of its stockholders and Board of Directors in meetings duly assembled and held for that purpose on the 3rd day of July, 1914, for and in consideration of an agreement to purchase; agreemnt being this day duly executed; of the McAlester Fuel Company the following property to-wit:

1st— 3000 shares of the capital stock of the Hartford Coal Company, a corporation; par value of said stock being $75,000.00.

2nd— Notes of the Hartford Coal Company as follows:

One note for $5,000.00 dated July 28th, 1913, payable July 28th, 1918, with interest at the rate of eight per centum (8%) per annum, payable to and endorsed by the Kali-Inla Coal Company and the Bache-Denman Coal Company.

1220 One note for $5,000.00 dated July 28th, 1913, payable July 28th, 1918, with interest at the rate of eight per centum (8%) per annum, payable to and endorsed by the Prairie Creek Coal Mining Company and the Bache-Denman Coal Company.

One note for $5,000.00 dated July 28th, 1913, payable July 28th, 1918, with interest at the rate of eight per centum (8%) per annum, payable to and endorsed by the Mammoth Vein Coal Company and the Bache-Denman Coal Company.

One note for $5,000.00 dated July 28th, 1913, payable July 28th, 1918, with interest at the rate of eight per centum (8%) per annum, payable to and endorsed by the Coronado Coal Company and the Bache-Denman Coal Company.

One note for $2,000.00 dated July 28th, 1913, payable July 28th, 1918, with interest at the rate of eight per centum (8%) per annum, payable to and endorsed by the Bache-Denman Coal Company.

All of said notes being secured by a first mortgage on lands and property of the Hartford Coal Company in Sebastian County, Arkansas; said mortgage being in favor of H. Denman, Trustee, and more particularly described in the terms of same as recorded in Record Book 23, page 438, in the office of the Ex Officio Recorder at Greenwood, Arkansas.

3rd— Note of the Hartford Coal Company for $8700.00 dated June 1st, 1914, payable to the Kali-Inla Coal Company on demand [wityh] interest at the rate of eight per centum (8%) per annum until paid; said note bearing endorsement

of the Kali-Inla Coal Company and the Bache-Denman Coal Company.

And in consideration that the said Mammoth Vein Royalty Company has agreed to pay for said property to the Ma-
Alester Fuel Company the sum of Twenty-one Thou-
1221 sand Dollars ($21,000.00) and other good and valu-
able considerations; the receipt of which is hereby acknowledged; has granted, bargained, sold and conveyed and by these presents does hereby grant, bargain, sell and convey unto H. C. Parmelee, Trustee, his successors and assigns the following described property to-wit:

Southeast Quarter (SE¼) of Southeast Quarter (SE¼) Section 3; Southwest Quarter of Southwest Quarter Section Two; Lots 15, 16, and 21 of Section Two; all in Township 4, North, Range 32 West in Sebastian County, Arkansas.

A part of Lot number twenty-two (22) of the North half (N½) of Section Two (2), said part being described as beginning at the North West corner of said Lot Twenty-two, thence ninety-eight yards South, thence ninety-eight yards of Arkansas, together with all the estate, right, title an East, thence ninety-eight yards North, thence ninety-eight yards West, to place of beginning. All in Township Four (4) North, Range Thirty-Two (32) West, in the County of Sebastian and State of Arkansas, together with all the estate, right, title and interest of the Mammoth Vein Royalty Company in and to the aforesaid lands and in the coal, oil, minerals, lands, tenements and hereditaments thereby demised and heretofore herein particularly described; and together with all the ways, passages, watercourses, waters, easements, rights, privileges and appurtenances whatsoever in and of the hereby granted and mentioned premises and estates belonging and appertaining or hereafter to belong or appertain thereto, and the reversions and remainders, rents, issues and profits thereof, and all the estate, right, title, interest property claim and demand of every nature, kind and description of the said Mammoth Vein Royalty Company now owned and possessed or that may hereafter be acquired as well at law as in equity, of in and to the same and every part and parcel thereof.

1222 Subject, however, to a certain coal mining lease executed by the Mammoth Vein Royalty Company to the Mammoth Vein Coal Company; said lease bearing date of Oct. 1st, 1904, and being for a term of seventeen (17) years from said date and thereafter extended to August 1st, 1935; which said lease is recorded in the office of the Register of

deeds of Sebastian County, Arkansas, Greenwood District, Record Book ....., Page .....; to which original lease, reference is hereby made for more particular description thereof.

To Have And To Hold the aforesaid property [untio] the said H. C. Parmelee, Trustee, his successors and assigns forever together with the privileges and appurtenances thereunto belonging.

The foregoing conveyance is on condition: That, whereas, the Mammoth Vein Royalty Company has this day agreed to pay to the McAlester Fuel Company the sum of Twenty-One Thousand Dollars ($21,000.00) in which amount, the said Mammoth Vein Royalty Company is justly indebted to the McAlester Fuel Company for the purchase price of the securities above named. The said sum to bear interest and to be due and payable in six months from this date.

Now if the said Mammoth Vein Royalty Company shall pay or cause the said sum of Twenty-One thousand Dollars ($21,000.00) to be paid with interest thereon at the rate of ten per centum (10%) per annum from maturity until paid, then this mortgage to be null and void, otherwise to remain in full force and effect.

And it is further stipulated and agreed that during the continuance of this instrument in force, the said mortgagor shall at all times keep fully paid all State and County taxes and other governmental charges and assessments as
1223 may be required by law.

And it is further stipulated that in case the said mortgagor shall make default in the payment of any taxes, that the McAlester Fuel Company, its successors or assigns, may pay such taxes, and the amount so paid with interest at the rate of ten per centum (10%) per annum from date thereof until repaid shall be considered a sum; the repayment of which is hereby secured.

And it is further stipulated that the said mortgagor will not cause or permit any of the property of whatsoever character, real or personal, described herein, to be mortgaged or in any wise further encumbered until the indebtedness hereby secured has fully satisfied.

And if default be made in the payment of said sum or in any interest payment when due or any taxes, or if the said mortgagor becomes insolvent, then in any or either event, upon the breach of these conditions or any or either of them,

the said sum with all interest thereon shall at the option of the McAlester Fuel Company become immediately due and payable and the McAlester Fuel Company, its assignee, agent or attorney, or the said above named trustee at the request of the McAlester Fuel Company, shall have the power to sell said property at public sale for cash at the front entrance of the County Court House in the town of Greenwood, County of Sebastian and State of Arkansas; first giving thirty days notice of the time, terms and place of sale and of the property to be sold by advertisement published four times in some newspaper published in said County of Sebastian; and upon the said sale, the said Trustee shall execute and deliver the deed of the property so sold to the purchaser or purchasers; and any statement of facts, or recitals by said Trustee in relation to the non-pay-
1224 ment of the money secured by this mortgage to be paid, the advertisement, sale, receipt of the purchase and the execution of the deed to the purchaser or purchasers, shall be received as prima facie evidence of such facts. And the said Trustee shall out of the proceeds of such sale pay first the cost and expenses of this mortgage and all sums which may have been laid out and expended by the Trustee or the McAlester Fuel Company for taxes on said property and next to the payment of any and all sums that may be due on said principal sum. The remainder, if any, shall be paid to the mortgagor herein.

If default be made in the payment of taxes, interest or the principal sum, the said trustee at the request of the McAlester Fuel Company for said principal sum of Twenty-One Thousand Dollars ($21,000.00) is hereby authorized to take possession of said property and to hold the same for the interest of all concerned.

And the said mortgagor hereby waives all right of appraisement or redemption which it may be entitled to under the laws of the State of Arkansas.

In Testimony Whereof, the said Mammoth Vein Royalty Company has caused its corporate name to be hereunto subscribed by its president and corporate seal to be affixed by its secretary this 3rd day of July, 1914, at the City of Fort Smith, in the County of Sebastian and State of Arkansas.

MAMMOTH VEIN ROYALTY COMPANY

(Seal) By F. Bache President.

Attest: E. P. Joyner Secretary. Seal

State of Arkansas,
County of Sebastian—ss.

Be it remembered, that on this day came before the
1225 undersigned, a Notary Public within and for the County aforesaid duly commissioned and acting, Franklin Bache to me well known as the President of the Mammoth Vein Royalty Company and E. P. Joyner, Secretary, to me well known as the Secretary of said company, who stated and acknowledged that they had executed the above and foregoing mortgage for and on behalf of the Mammoth Vein Royalty Company for the consideration and purposes therein mentioned and set forth and that said above named mortgage was duly authorized by a meeting of the Directors and stockholders of said Mammoth Vein Royalty Company and I do hereby so certify.

Witness my hand and seal as such Notary Public this 3rd day of July, 1914.

(Seal) JAS. K. PERKINS.

My commission expires 4/11/18. Notary Public

Filed for record on this 27th day of July, 1914, at 8 o'clock a. m.

CLAUDE HOFFMAN,
Clerk & Ex-Officio Recorder,
By Pat L. Smith, D. C.

State of Arkansas,
County of Sebastian,
Greenwood District—ss.

I, R. A. Harper, Clerk of the Circuit Court and Ex-Officio Recorder within and for the County and State aforesaid, do hereby certify that the annexed and foregoing pages contain a true and perfect copy of the Mortgage from Mammoth Vein Royalty Co. to H. C. Parmelee, Trustee, as therein set forth and as same appears in Mortgage Record 24 at page 198, of the records on the office of the Circuit Court at Greenwood, in the Greenwood District of Sebastian County, Arkansas.

Witness my hand and seal of said court, this 15th
1226 day of September, 1917.

R. A. HARPER, Clerk.
By Pat L. Smith, D. C."

Q. Mr. Bache, what did the Mammoth Vein Coal Company owe the McAlester Fuel Company $21,000.00 for?

A. Money advanced.
Q. For what?
A. For the consideration of the instrument you have before you.
Q. It was not transacting any business, was it?
A. It transacted that business. It sets it forth right there.
Q. What did it owe that $21,000.00 for?
A. It owed the money to the McAlester Fuel Company because it borrowed it from it.
Q. What for?
A. Because it had need for it in its business, I suppose.
Q. Had what?
A. It had need for it and wanted to borrow it, and it did borrow it, and the McAlester Fuel Company was willing to lend it.
Q. On the 3rd of July, 1914, it borrowed $21,000.00 from the McAlester Fuel Company? A. Yes.
Q. That is the Mammoth Vein Royalty Company borrowed that money? A. Yes.
Q. You as the President of that company sold and transferred 300,000 shares of the capital stock of the Hartford Coal Company of the par value of $75,000.00, did you?
A. Yes, if that is what that says.
Q. What were you putting up the stock of the Hartford Coal Company for? A. To secure the loan.
Q. To secure the loan? A. Yes.
Q. To whom did you pay the money you received
1227 from the McAlester Fuel Company? Who did the Mammoth Vein Royalty Company pay it to?
A. I cannot tell you; the books will show you that.
Q. Have you any independent recollection in the matter?
A. No, I have not. Doubtless some of it was used to pay current debts, and other part of it was used by the Mammoth Vein Coal Mining Company to pay its men employed by it and not producing any coal and so forth.
Q. So that is a debt it contracted itself on its own account? A. Yes, whatever that says there, it says.
Q. I am interrogating you about this. You also transferred a note by the Bache-Denman Coal Company for $5000.00 on that date to the McAlester Fuel Company, that is to the trustee, Mr. Parmelee? A. Is that so?

Mr. McDonough: I am not objecting to the question, but if these instruments are introduced in evidence I think they ought to be read.

The Court: Those that have been introduced, with the permission of counsel, may be considered as read and either party may refer to them.

Mr. Covington: I started out on that theory yesterday.

The Court: The Court suggested then that these formal matters might be considered as read, and either party may cite or read any portion of them. You are entirely within your rights to insist that they be read.

Mr. Hull: Mr. McDonough was not here when your Honor's ruling was made Saturday.

Mr. Covington: If they insist on it we will read them.

Q. Mr. Bache, you sold and transferred to that company, that is, to the trustee, for the benefit of the McAlester Fuel Company, on the 3rd day of July, 1914, a
1228 note dated July 28, 1913, payable July 28, 1918, with interest at the rate of eight per cent, endorsed by the Kali-Inla Coal Company and the Bache-Denman Coal Company; why were you using the collateral of those companies?

A. Because the money was needed in the operation of the business of the companies.

Q. Now, do you care to tell us what kind of business the Mammoth Vein Royalty Company had contracted that needed these funds, $21,000.00?

A. I do not think the Mammoth Vein Royalty Company had contracted any of the debts, except the debts it may have had to the,—I will take that back, It was the other way, the Mammoth Vein Coal Company owed money to the Mammoth Vein Royalty Company. I think the Mammoth Vein Royalty Company was endorser on some of the paper of the Mammoth Vein Coal Company, but I do not think the Mammoth Vein Royalty Company had direct debts at that time.

Q. What paper was then used, was what the Mammoth Vein Royalty Company had endorsed?

A. I think it was paper of the Mammoth Vein Coal Company to the Kali-Inla Coal Company.

Q. How do you explain then that the Kali-Inla Coal Company was endorsing the notes over to the McAlester Fuel Company and becoming doubly indebted for the debts of the Mammoth Vein Royalty Company? Why was that?

A. I do not understand that it became doubly indebted.

Q. Well, you said the Mammoth Vein Royalty Company owed them the note?

A. It could not be made to pay the debt twice.

Q. I understand, but they would lose their debts and have to pay it to the other fellow too, wouldn't they? If the Mammoth Vein Royalty Company failed to pay its note to the Kali-Inla when it was due it would have to pay, would it not?

1229 A. The note you refer to was a note of the Hartford Coal Company to the Kali-Inla Coal Company I think.

Q. I was just taking your statement of it, Mr. Bache, that the Mammoth Vein Royalty Company was indebted to the Kali-Inla Coal Company. This note is executed to the Kali-Inla Coal Company was transferred to the McAlester Fuel Company and endorsed by the Kali-Inla. Now, I want to know why that was, that the Kali-Inla Coal Company assumed a double liability? In other words, the chance of losing its debt and becoming responsible for the $5000.00 to the McAlester Fuel Company; why did you do that?

A. I do not understand the Kali-Inla Company endorsed that note you have there.

Q. You executed that instrument, didn't you?

A. Yes, I executed the instrument. As to the Kali-Inla?

Q. You said the note was due the Kali-Inla Company from the Mammoth Vein Royalty Company.

A. I did not say that note, but that it endorsed other notes of the Mammoth Vein Coal Company to the Kali-Inla Coal Company.

Q. Was this particular note executed to the Kali-Inla Company and transferred by you to the trustee in this deed, Exhibit No. 4?

A. I do not think so; I would have to refer to it again. The statement I made,—you asked me whether the Mammoth Vein Royalty Company had any debts and I stated I did not think it had any direct debts, but I think it had endorsed some notes of the Mammoth Vein Coal Company in favor of the Kali-Inla Coal Company. I was not referring to that transaction.

Q. The Mammoth Vein Royalty Company is executing this instrument; you say they are indebted $21,000.00 and they transfer all of this property in the deed I am here referring to to secure the payment of that $21,000.00.

1230 You state further, if I understand you, that it was in cash and paid at the time this instrument was executed. Now I want to know why it is that the Kali-Inla Coal Company, holding the notes or obligations of the

Mammoth Vein Royalty Company, could endorse it over or sell it without compensation or value.

A. I do not think the Kali-Inla did sell it. The Mammoth Vein Royalty Company sold its own land to the McAlester Fuel Company for so many dollars, if I understand that transaction; didn't it?

Q. In describing the property you described it in this instrument as follows: "3000 shares of the capital stock of the Hartford Coal Company, a corporation, par value of said stock being $75,000.00.

2nd. Notes of the Hartford Coal Company as follows: One note for $5000.00 dated July 28, 1913, payable July 28, 1918, interest eight per cent, payable to and endorsed by the Kali-Inla Coal Company and Bache-Denman Coal Company."

A. (Interrupting.) The Hartford?

Q. Was that [accomodation] paper?

A. I cannot give the legal names to those things. It will have to speak for itself, Mr. Covington.

Q. Well, you executed it as President of the Mammoth Vein Royalty Company, didn't you? Did you know then what you were doing?

A. If that paper is executed by me it doubtless was executed by me.

Q. You say it was executed by you?

A. Yes, it looks like it.

Q. Did you know what you were doing when you executed it? A. I no doubt did.

Q. Well, does that read like you understood it at the time?

1231 A. I understood at the time that we were borrowing money from the McAlester Fuel Company for $20,000.00.

Q. Who is "we"? Who do you refer to?

A. These coal companies over here in Arkansas.

Q. Were all of them borrowing it?

A. Those that are mentioned there.

Q. All these companies that are mentioned here? A. Yes.

Q. Now, the Kali-Inla Coal Company is mentioned. Why was it borrowing money to put into the Arkansas corporations if you say it was a separate and distinct company?

A. I do not think in that particular transaction the Kali-Inla Coal Company was borrowing money.

Q. It endorsed the paper you say here. This is your statement and you acknowledge it to be true and say now it is true. You say it endorsed the paper?

A. That was a note of the Hartford Coal Company to the Kali-Inla Coal Company was it? Let me see it.

(Mr. Covington hands paper to the witness.)

The Court: Let the witness understand what he is being interrogated about. It is hard for the Court to get all of these different corporations straight.

Mr. Covington: There is a lot about it no one can understand.

A. I am not lawyer enough, Mr. Covington, to be able to tell you the bearings of all of that.

Q. I am not asking you about the legal phase of it, but what you did? A. I signed that, whatever it was.

Q. You were president of all these companies?

A. Yes, I think so.

1232 Q. And executed all these instruments? A. Yes.

Q. And now you say you are not lawyer enough to know what it means?

A. I executed that agreement, and now, what it means is for a lawyer to tell what that is, but not me.

Q. You have no further explanation to make?

A. I offer this explanation, that we wanted $20,000.00 and put up this security and borrowed it.

Q. The Mammoth Vein Royalty Company is an Arkansas corporation, is it, Mr. Bache? A. Yes, sir.

Mr. Covington: I offer as Exhibit No. 5 of defendants the Articles of Incorporation of the Mammoth Vein Royalty Company, certified to by the Secretary of the State of Arkansas.

The Court: Let it be marked as an exhibit for identification.

Said defendants Exhibit No. 5 so produced and offered in evidence is in words and figures following, to-wit:

1233 "Exhibit No. 5.

State of Arkansas,

Department of State

Tom J. Terral, Secretary of State.

To all to Whom These Presents Shall Come, Greeting: I, Tom J. Terral, Secretary of State of the State of Arkansas, do hereby certify that the following and hereto attached instrument of writing is a true and perfect copy of

Articles Of Agreement And Incorporation

of the

Mammoth Vein Royalty Company

the original of which was filed for record in this office on the 17th day of October, 1904.

In Testimony Whereof, I have hereunto set my hand and affixed my official Seal. Done at office in the City of Little Rock, this 31st day of August, 1917.

(Seal) (Signed) TOM J. TERRAL,
Secretary of State.

Articles of Incorporation

of the

Mammoth Vein Royalty Company.

- - - - - - -

Know All Men By These Presents, That the corporators hereinafter named have this day formed a corporation under and in pursuance of the law of the State of Arkansas in that behalf provided for "Incorporation for manufacturing and other lawful business", and in evidence thereof do hereby execute the following Articles of Incorporation:

I.

The name of said corporation shall be:

1234 Mammoth Vein Royalty Company,

and it is organized for a period of fifty (50) years.

II.

The names of the incorporators are Franklin Bache, William J. Echols, C. E. Spear and James F. Read.

III.

The principal office and place of business of this corporation shall be at Fort Smith in the State of Arkansas, or at such other place as the Board of Directors may select.

IV.

The amount of capital stock of said corporation shall be eight thousand seven hundred and fifty dollars ($8750.00) dvided into three hundred and fifty (350) shares of twenty five dollars ($25.00) each, the whole of which said capital stock has been subscribed by the corporators aforesaid.

V.

The general nature of the business proposed to be done and transacted by this corporation is to own, hold, lease and otherwise acquire real-estate, to incumber and improve same, and to sell, let and demise or otherwise dispose thereof, to purchase any and all wares, commodities, live stock and personal property of any nature and the same to sell again for profit.

VI.

The affairs and business of the corporation shall be controlled by the Board of Directors consisting of three members, all of whom shall be stockholders of the corporation, said Board of Directors shall elect one of its board as President, and shall also elect a Secretary and Treasurer.

[VIII.]

The first election of said directors shall be held immedi-
1235 adiately after the organization of the corporation, and said Directors shall serve for one year and until their successors are elected.

VIII.

The Board of Directors are empowered to ordain and establish all by-laws and regulations necessary to the management and business of said corporation and to alter and repeal the same at pleasure.

IX.

The first meeting of the said incorporators for organization shall be held in the City of Fort Smith, Arkansas, at office of Cherokee Constructing Company at 12 o'clock M, on the 15th day of October, 1904, and the subscribers hereto hereby waive notice of said meeting.

In Testimony Whereof, we have hereunto set our hands on this the 15th day of October, 1904.

FRANKLIN BACHE,
WILLIAM J. ECHOLS,
C. E. SPEAR,
JAS. F. READ.

Certificate of Incorporation.

Whereas, Franklin Bache, William J. Echols, C. E. Spear and James F. Read have associated themselves together as a body politic and corporate, to be known as Mammoth Vein Royalty Company; and

Whereas, said incorporators, being all the subscribers to the capital stock of the said corporation, have waived the fif-

teen days' notice as required by law and called a meeting to be held in the City of Fort Smith, State of Arkansas at office of Cherokee Constructing Company at 12 o'clock M, on
1236 the 15 day of October, 1904; and

Whereas, at the time and place above set out a meeting of the subscribers aforesaid was held to organize said corporation and elect three directors; and

Whereas, at the said meeting the following named gentlemen were elected directors, to-wit: Franklin Bache, Williams J. Echols and C. E. Spear; and

Whereas, at a meeting of the said Board of Directors Franklin Bache was elected President, and W. H. Echols was elected Secretary, and W. J. Echols was elected Treasurer.

Now Therefore, the said President and the said W. H. Echols and C. E. Spear do in pursuance of law issue this their certificate verified by their oaths and do hereby certify as follows: First, said corporation is formed for the purpose of owning, holding, leasing and otherwise acquiring real-estate, to incumber and improve same, and the selling, letting, and demising or otherwise disposing thereof, and the purchasing of any and all wares, commodities, goods, merchandise, live stock and personal property of any nature and the selling of same again for profit; Second, its capital stock is eight thousand and seven hundred and fifty dollars ($8750.00), divided into three hundred and fifty (350) shares of twenty-five dollars ($25.00) each; Third, the whole of said capital stock has been actually paid in by the subscribers hereto; Fourth, the name of stockholders and number of shares owned by them respectively, are as follows:

Name	Amount of stock.
Franklin Bache	254 shares.
William J. Echols,	42 shares.
C. E. Spear	42 shares.
1237 James F. Read	12 shares.

In Testimony Whereof, the said Franklin Bache President of said corporation, and the said W. J. Echols and C. E. Spear a majority of the Board of Directors of said corporation, have hereto set their hands on this the 15 day of October, 1914.

FRANKLIN BACHE,
President.

FRANKLIN BACHE)
W. J. ECHOLS) Directors.
C. E. SPEAR)

State of Arkansas,
County of Sebastian—ss.

Franklin Bache, William J. Echols, and C. E. Spear on their oaths say that the matters and things in the foregoing certificate set out are true to the best of their knowledge and belief.

FRANKLIN BACHE,
W. J. ECHOLS,
C. E. SPEAR.

Subscribed and sworn to before me this the 15 day of October 1904.

(Seal) J. R. STARTZELL,
Notary Public.

My Commission Expires September 1, 1908.

Certificate of Record.

State of Arkansas,
County of Sebastian.

Ft. Smith District.

I, T. N. Reed County Clerk, for the County aforesaid, do hereby certify that the annexed and foregoing instrument of writing was filed for record in my office on the 15th day of October A. D. 1904, and the same is now duly recorded,
1238 with the affidavits and certificates thereon, in record book "D" for Articles of incorporation, at page 37.

In Witness Whereof, I have hereunto set my hand and official seal this 15th day of Oct., 1904.

T. N. READ, Clerk,
By ....., Deputy."

Q. Mr. Bache, on the first of April, 1914, what was the indebtedness of the Mammoth Vein Royalty Company?
A. I do not know, the books will show.
Q. Can you state about what it was? A. No.
Q. Can you state anywhere in the neighborhood of it?
A. No. I do not wish to testify to things I cannot be exact about, Mr. Covington,—what the debts of the company were at that particular date.
Q. How much did the Prairie Creek Coal Mining Company owe?
A. I will make the same answer to that question.
Q. You do not want to even approximate it?
A. Well, inasmuch as the books are ordered in I think it is useless for me to try to testify and guess at it.

Q. The Mammoth Vein Coal Company on that date.
A. I know the debt of the Mammoth Vein Coal Company was very large. I happen to remember it exceeded $100,000.00.
Q. $100,000.00. A. Yes.
Q. The Mammoth Vein Coal Mining Company?
A. I do not know, Mr. Covington, in April—
Q. (Interrupting.) On the same date, I mean. The Coronado Coal Company on the same date, what was its indebtedness? A. I do not recall.
Q. About how much?
1239 A. Well, it was less than the Mammoth Vein Coal Company's.
Q. The Hartford Coal Company.
A. I do not recall that either. It was also less than the Mammoth Vein Coal Company's.
Q. The Sebastian County Coal Company, on the same date.
A. I do not recall.
Q. The Bache-Denman Coal Company on the same date?
A. I do not recall. I do not recall the debts of these companies on particular dates.
Q. The Denman Coal Company on the same date.
A. I do not recall that.
Q. I believe you testified Saturday on your direct [examinattion] that there was a Bache & Denman Coal Company.
A. Yes, sir.
Q. Where did it operate?
A. Its property owned by it is located about three miles east of Red Oak.
Q. In Oklahoma? A. Yes, in Oklahoma.
Q. Has it anything to do with the Arkansas business, with the plaintiff corporations here?
A. It had no mine in Arkansas. The stock of the Bache & Denman Coal Company was owned by the Bache-Denman Coal Company and Mr. Denman and myself were stockholders.
Q. Did it own any of the physical properties of these companies in Arkansas, the company named?
A. I do not think it did. No, sir, I am pretty sure it did not.
Q. Then, none of the property you allege here was destroyed belonged to that company, did it?
A. The Bache & Denman Coal Company?
Q. Yes.
A. Not much of it at any event. I cannot remember any of it at the moment.
1240 Q. Is the Bache & Denman Coal Company an Oklahoma corporation?

A. Yes, sir. It was an Indiana territory corporation when it was formed. I suppose that is Oklahoma.

Q. What is the difference in the name Bache-Denman Coal Company and Bache & Denman Coal Company?

A. One is the Bache-Denman Coal Company and the other is the Bache & Denman Coal Company.

Q. I hand you both names written out as they appear in your papers, on a slip of paper which has been marked Defendants' Exhibit No. 6.

The Court: Mark it Defendants Exhibit 6, Mr. Reporter.

Q. (Continuing.) And I will ask you if that is the correct way of spelling those names of, the Bache-Denman Coal Company and the Bache & Denman Coal Company.

A. The spelling is correct, yes, sir.

Said Defendants Exhibit No. 6 so produced and identified is as follows:

"Bache-Denman Coal Company.

Bache & Denman Coal Company."

Q. Explain the difference in the two names, Mr. Bache.

A. Well you see, one is Bache-Denman Coal Company and the other is Bache & Denman Coal Company.

Q. Don't you use the word "and" or what it is?

A. I said Bache & Denman Coal Company.

Q. Do you use the letters "a-n-d"? If not, what do you use? A. In speaking of it?

Q. Why, the way it is written you say is correct?

A. Oh, I may write it Bache and Denman, with the word and spelled out, or may be used the little sign for and and write it Bache & Denman Coal Company.

Q. On the Articles of Incorporation just as it it there?

1241 A. I do not know whether the articles of incorporation are Bache and Denman or Bache & Denman.

Q. But the difference in the two corporations the first one Bache-Denman Coal Company has a dash between the words "Bache-Denman"? A. Yes.

Q. Do you mean that for an and? A. No.

Q. Or to emphasize the word Denman?

A. For exactly what it sets forth, Bache-Denman and Bache & Denman.

Q. What did the Mammoth Vein do with the lease it received from the Cherokee Construction Company to No. 4, that property? I mean the Prairie Creek Coal Mining Company. What did it do with that property?

A. It operated it.
Q. Did it make and disposition on the lease at all?
A. Will you repeat that first question? Did you ask me what the Mammoth Vein did with the property?
Q. No, I will ask you again; didn't the Prairie Creek Coal Mining Company transfer the lease it received from the Cherokee Construction Company to the Mammoth Vein Coal Company March 28, 1914? A. No.
Q. What did you do with it?
A. We didn't transfer it to them March 28th. On March 28th, or in March, 1914, I am not positive to the date, it entered into an agreement with the Prairie Creek, with the Mammoth Vein Coal Mining Company to operate the mines.
Q. What became of the lease?
A. It was still in effect when the properties were burned up and the plaintiffs went into the hands of receivers. I do not know what has become of it since.
Q. You don't? Don't you know it was forfeited in this 1242 court?
A. What lease are you talking about, Mr. Covington? I am talking about the lease the Prairie Creek Mining Company made,—
Q. (interrupting). I am talking about the lease the Prairie Creek Coal Mining Company made to No. 4.
A. That was cancelled in this court as you stated.
Q. Wasn't it forfeited after it was transferred to the Mammoth Vein Coal Company by Judge Youmans because you failed to pay the royalty and you transferred it without authority, according to the terms of it?
A. No, I do not think so.
Q. You were a witness in that case, weren't you?
A. I was.
Q. Do you mean to say now you do not know it was forfeited for those specific reasons? A. I do.
Q. You do? A. Yes,
Q. Mr. Bache, did you borrow any money on account of the Coronado Coal Company?

The Court (addressing counsel for plaintiffs): Gentlemen, we will have to have less of this conference across the counsel table. It is annoying to the court and to the jury. This court is not run in accordance with the courts I have presided over. There is no marshal here at all to preserve order.

Q. Proceed, Mr. Bache. Read the question, Mr. Stenogragher.

(Question read by Stenographer Perkins: "Mr. Bache, did you borrow any money on account of the Coronado Coal Company?")

A. When, any time?
Q. Just prior to the time you allege it was destroyed?
A. I do not recall.
Q. By way of refreshing your memory, didn't you borrow money from the American Nat'onal Bank in this
1243 city? A. I do not recall doing so, no, sir.
Q. Didn't you borrow several thousand dollars and execute notes to the bank, that are now on file in the Receivership, to that bank, that went broke, for these coal companies just a short time before it did go into the hands of a receiver?
A. You asked me if the Coronado Coal Company,—
Q. (interrupting). Well, any of them?
A. That is another question.
Q. I first asked you as to the Coronado; now I ask you as to the others?
A. It owed about ten thousand dollars a piece for each, the Denman Coal Company, the Hartford Coal Company and the Prairie Creek Coal Mining Company, I think.
Q. $30,000.00, is that it?
A. About that in round [numners].
Q. Did you pay it? A. No.
Q. It is still due? A. Still due.
Q. How long before the alleged destruction of the property was it you borrowed that money?
A. About ten years.
Q. How long? A. Seven or eight or ten years.
Q. Seven or eight or ten years? A. Yes.
Q. You did not borrow any just before the trouble that you allege?
A. No, we probably renewed notes.
Q. You probably renewed notes? A. Yes.
Q. Did you pay any of the original indebtedness, that is the indebtedness originally contracted? Did you pay anything on it at all? A. I think so, but not very much.
Q. About how much?
A. I would not like to state; we can get it from the books.
Q. Mr. Bache, I will ask you if it is not a fact that for those notes, prior to the 17th day of July, 1914, you contracted an indebtedness for those corporations, those
1244 nine coal companies, for something over $750,000.00?
A. No, not at any one time that much.
Q. Didn't you testify here on this receivership matter, Mr. Bache, that the Arkansas companies alone had become indebted $565,000.00 in the last five years?

A. I think that was about correct. I think I said it was about $500,000.00, but not $750,000.00, as I remember it.

Q. You make it over half a million dollars then?

A. About,—between four hundred thousand and five hundred thousand dollars was about the debt.

Q. Was that money used in the mines here, of the nine corporations suing here?

A. Practically all of it.

Q. Practically all of it? A. Yes.

Q. You allege in your complaint that the Hartford Coal Company shipped in excess annually coal of the value of $50,000.00, the Mammoth Vein Coal Company an excess of $120,000.00, the Coronado Coal Company an excess of $175,000.00; the Prairie Creek Coal Mining Company an excess of $120,000.00; making a total of $465,000.00 annually. Did you spend all of that money down in those mines, Mr. Bache?

A. That we got for the sale of that coal?

Q. Yes, sir.

A. Yes, sir, we spent all of that, and I think rather more.

Q. That is what I am trying to get at. You spent,—I mean made in excess of $465,000.00 a year and also went into debt over half a million dollars?

A. Your statement,—I do not know—

Q. You said a moment ago you had gone in debt over half a million? A. That is approximately correct.

Q. And you said you made in excess of $465,000.00 a year?

1245 A. No, pardon me, I did not say we had made $465,000.00 a year.

Q. You said you shipped in excess of that amount?

A. Pardon me, I said the value of coal we shipped in a year was about that. We had to pay our mine expenses, we had to pay our men out of that, and everything else.

Q. That is what I am trying to get at, if you spent it in wages and everything of that kind,—if you spent all that sum down there. Section 4, that is sub-division 4 of this complaint,—read that, Mr. Bache, from the word "and" down to "$120,00.00"? A. "And",—

The Court (interrupting): Never mind reading it into the record; it is only called to your attention.

Q. Yes, just read it to yourself, Mr. Bache, and then answer the question. A. Yes, sir.

Q. That is the statement you made, isn't it?

A. Yes.

Q. Dont those figures there total $465,000.00 annually?

A. I will add them up.

Q. Add them up and see. A. $465,000.00
Q. Yes, sir. Now, that was the value of the annual shipments made from the various plaintiff companies?
A. Yes.
Q. And you expended all that, and in addition to that you went into debt over half a million dollars?
A. About that.
Q. Now, for what period of time preceding the destruction of the property did you spend this money?
A. Did we spend that $465,000.00 a year, is that what you refer to?
1246 Q. Yes.
A. Oh, for a number of years,—five or six or seven or eight even.
Q. Then the total expenditure in the native mines for five or six or seven years exceeded more than half a million dollars, didn't it, each year?
A. Well, it added up there $465,000.00
Q. But you borrowed one-half a million?
A. Yes, it would exceed half a million dollars? That is approximately correct.
Q. Then the cost of producing your coal for the years you have mentioned, five or six or seven years prior to the alleged destruction of the property, your income from all those properties was more than half a million dollars?
A. No, sir.
Q. It was not? A. No, sir.
Q. What did you do with it?
A. We built the properties.
Q. You spent it all down there, didnt you?
A. Yes, but we spent large sums in building the properties; we spent large sums in building the properties.
Q. You did not even draw any salary, did you?
A. Yes, sir, of course I drew a salary.
Q. How much?
A. Ten thousand dollars a year.
Q. I will ask you if these $30,000.00 you borrowed from the bank over here for those three corporations, you did not appropriate for three years' salary in advance?
A. I did not.
Q. And wont your books so show? A. No.
Q. You did take out three years' salary?
A. No, I took out eight, but none in advance.
Q. Didn't you take out some in advance just prior to the destruction of this property? A. No.
1247 Q. Who acted as your superintendent at Mammoth Vein No. 1? A. At what time?

Q. At any time, from the time you started up until you closed; name them all.

A. Mr. Hillingn was one, possibly the first.

Q. Did you ever at any time have Carl King your superintendent, who is now connected with the United Mine Workers?

A. I do not recall his being superintendent of No. 1; he might have been.

Q. He was mine foreman, wasn't he?

A. If he was anything, he was mine foreman. He was mine foreman, but I do not know whether he was at No. 1.

Q. No 3, wasn't it?

A. Well, at Prairie Creek I think he was mine foreman.

Q. Mr. Bache, when did you join the Southwest Operators Association?

A. To speak accurately I never joined it. The companies I represent joined it, starting I think in 1903 or 1904.

Q. That is what I am trying to get at. I cannot disassociate you from the companies. The companies that are plaintiffs in this case, you mean, do you? A. Yes.

Q. You represented the coal operators of Arkansas in the first conference that was ever held in which an agreement was reached between the operators and the miners; you as representative of the plaintiff companies here, did you not?

A. No.

Q. Didn't you sign the first contract that was ever made in 1903, as the representative of the Arkansas Coal Operators, representing these plaintiff companies?

A. I might have signed the contract in 1903, but it was not the first contract ever made.

Q. Well, Mr. Bache, I hand you a contract which is
1248 a printed pamphlet which purports to be joint interstate agreement of operators and miners executed at Pittsburg, Kanass, July 27, 1903, and ask you to examine it and say if your name does not appear to that as a representative of the coal operators of Arkansas.

A. This says that the convention was held at Pittsburg, Kansas, and Ft. Smith, Arkansas, and I see I have signed it, as far as the print goes, and I guess it is true, on September 1st, 1903, which must have been the convention held at Ft. Smith.

Q. You held the convention here and adjourned to Pittsburg, Kansas?

A. I think it was the other way around. The convention was held in Pittsburgh, Kansas, in July according to that book and it must have been held at Ft. Smith afterwards.

Q. At least you completed the contract in the two conventions held that year.

A. I do not recall definitely, but I think at Pittsburg they agreed on the [generaly] conditions all around, and down here they agreed on special conditions in this part of the country.

Mr. Covington: I ask to have this pamphlet marked as an exhibit and offer it in evidence.

(Said pamphlet was marked Defendants Exhibit No. 7.)

A. (Continuing.) I do not know that at that date any of these plaintiff companies were in that association. I think it is more than likely I represented some of the other mines. I know that in 1903 that most of the plaintiff companies were not in existence and not operating mines, and therefore I could not have represented them or many of them at that time.

Q. Will you name the companies you did represent at that time who are plaintiffs in this case?

A. If any, it must have been the Denman Coal Com-
1249 pany or the Mammoth Vein.

Q. Many of the prominent operators of the country attended that convention, Mr. Bache

A. No, sir, I don't think there were any prominent people here. At Pittsburg there may have been some prominent men.

Q. Mr. Bush, who is the President of the Missouri Pacific Railroad was there, wasn't he?

A. I do not recall.

Q. And Carl Scholz of the Burlington was there?

A. Very likely. The only reason I am not sure is because I have not familiarized myself with who was at that particular convention.

Q. I am going to help you remember before you get through. And Mr. Taylor president of [—] was there too was he? A. I doubt that.

Q. All of the Kansas operators was there?

A. At Pittsburg?

Q. Yes. A. I suppose most of them.

Q. All of the Missouri operators were there?

A. I have no doubt most of them.

Q. Mr. Gordon of Texas who is now with the Texas Pacific Railroad and directing the operation of the mines at Thurber, Texas, was also there? A. Very probably.

Q. That was the first contract that was ever entered into in the southwest? A. No, sir.

Q. The first interstate agreement?
A. I expect it is the first interstate agreement.
Q. That is what I am referring to.
A. It was not the first agreement between the operators and the miners of the southwest.
Q. But that is the first interstate agreement they ever entered into? A. As far as I know.
1250 Q. You have been here a long period of time?
A. Yes, I was. So far as I know it was the first one.
Q. You assisted, as representative of some of these plaintiff companies,—you assisted in bringing about the idea of collective bargaining between the operators of the southwest and the coal diggers, didn't you?
A. I assisted in keeping off as many conditions as I could during the production,—
Q. (Interrupting.) That does not answer my question, Mr. Bache. You assisted in [bring] about, that is, rather in consummating the idea of collective bargaining on the part of the operators and miners in the southwest, didn't you?
A. I cannot see it in that way.
Q. Wasn't that the first time the operators and miners had ever met in the southwest in all these states?
A. Yes.
Q. And you were there from Arkansas. A. Yes.
Q. You represented the coal operators of this state as well as these companies you have named.
A. I was not the only representative of the coal operators of these states; there were doubtless many others.
Q. Mr. Perry, an attorney of Kansas City of the firm of Holmes & Perry was there present? A. Very probably.
Q. You helped prepare this document, did you not?
A. I do not think I did; it was probably by a scale committee.
Q. Weren't you on the scale committee in 1903 and assisted in the preparation of this particular contract?
A. Oh, I might have been on the general scale committee, but those contracts were generally drawn up by a very small sub-committee, and I do not remember of ever being
1251 on the sub-committee. In a general way I was at that conference and signed up for these companies and everybody I represented.
Q. At this time this contract was made non-union conditions existed in Oklahoma, didn't they?
A. I think not, Mr. Covington; I think at that time,—
Q. (Interrupting.) In 1903?

A. Yes, in that period of 1903 I think all Oklahoma mines had signed up and worked with union men.

Q. That was preparatory for this particular agreement?

A. I do not know that it was preparatory for this particular agreement.

Q. But you assisted in bringing it about, did you not?

A. No, I did not.

Q. You took an active part in bringing it about?

A. I was very much opposed to bringing it about.

Q. You were? A. Yes.

Q. Did you express that oposition in the convention?

A. No, I think the time had gone by probably then, and it was done.

Q. You kept a record of the proceedings there, didn't you, Mr. Bache? A. I did not.

Q. You didn't? You took a stenographer that did, didn't you? A. I may have.

Q. Don't you know they did?

A. No, sir, I do not.

Q. And aren't you in possession today of the original document prepared by the stenographer selected by you gentlemen in joint convention?

A. No. That is the only thing I have got (indicating) and I don't know that I have got that.

Q. You say this is all you have?

A. Yes, that is all I have.

Q. Have you any other contract?

A. As to this 1903 convention at Pittsburg, Kansas.

1252 Q. When you entered into this agreement at Pittsburg, shown by this exhibit No. 7 of defendants, did you know then of the competitive conditions that you have testified to here Saturday?

A. Yes, sir, I knew of them but [—] nearly so well as I have come to learn of them since.

Q. You had been all over the country hadn't you, even down to Honduras and Central America and that country? You had been all over the country?

A. I had never been to Honduras or Central America. Generally I have been around the country.

Q. You knew all the things you testified to yesterday on the question of competition?

A. No, not so well in 1903 as I have learned them since.

Q. Well, in a general way.

A. No, not even in a general way.

Q. You were wholly inexperienced, were you?

A. No, I was not wholly inexperienced, but I am a great deal more experienced now.

Q. I will ask if before the consummation of this agreement, Exhibit No. 7 of the defendants presented to you here, if the non-union conditions exisiting then with reference to work in the mines was not carried into and made a part of this agreement, and by your suggestion?

A. I think that agreement carried into, in general, the conditions that were in effect at the mines at the time that agreement was entered into, but I think those mines were at that time operating union.

Q. Let us go back now, and understand, Mr. Bache. You had been operating a non-union mine, hadn't you?

1253 A. Yes.

Q. And didn't you put the same conditions in this contract that existed in the non-union mines,—

A. (Interrupting.) I never changed any of our mines from open shop to union.

Q. I am not asking you that, but didn't you carry the same conditions, non-union conditions into this contract and they become a part of it?

A. No, sir, because the mines I have any familiarity with were operating union at the time that contract was made.

Q. The mine that you were connected with?

A. That I have any knowledge of were operating union at the time that contract was made.

Q. What mines were operating union over there? Name them, at the time you entered into this agreement.

A. The mine at Krebs; I think all the mines in Arkansas were operating union in 1903 and I think all the mines in Oklahoma. I know the mines we had in Arkansas were operating union because they never operated any other way while we had them. They were operating them that way when we bought them.

Q. I will ask you to read the last—the one next to the last sub-division of the first clause of that agreement, Exhibit No. 7.

A. That is the one you have marked in Green pencil?

Q. Yes, sir. A. I have read it.

Q. I will ask you if it is not a fact that those conditions existed in the non-union field and that they were carried from the non-union coal mines into this contract and you helped put it in there, led the fight for it.

A. No, sir.

1254 Mr. Covington: I want to refer to it as we go along and then read all of it at the end of this.

The Court: Let me suggest this. I do not know what your practice is in keeping track of your exhibits, but I have a rule that when exhibits are introduced in evidence they are put in charge of the clerk of the Court.

Mr. Covington: That is the rule here, but we are sort of stepping over the rule.

The Court: The trouble is gentlemen, that you have exhibits that you think have been introduced in evidence and the other side may have exhibits they think have been introduced and the record might not show their introduction.

Mr. Warrum: Can we get them from the clerk as we call for them?

The Court: Yes.

Mr. McDonough: If the Court please, in this court we turn the exhibits over to the court reporter.

The Court: Very well, that is just as well.

Mr. McDonough: May we look at them as we want them?

The Court: Yes.

Mr. Covington: I wish to offer in evidence now, if I have not already done so, Defendants Exhibit No. 7.

(Which exhibit No. 7 of Defendants, is in the words and figures, following, to-wit:)

1255 "Pittsburg Interstate Agreements.

For Scale to take Effect September 1, 1903.

Pittsburg, Kan., July 27, 1903.

It is hereby agreed between the representatives of the Southwestern Interstate Coal Operators' Association and the representatives of Districts 14, 21 and 24 of the United Mine Workers of America, that the following scale of prices shall be effective from September 1, 1903, until August 31, 1904.

Prices for Mining in Indian Territory.

Coalgate, Edwardsville, Brewerville, Baker, Krebs No. 11, No. 5 and No. 7, Buck No. 6, Hartshorne, Haileyville, Gowen, Wilburton, Lutie, Turkey Cree and Witteville, per ton for mine run coal ..... $ 72

Alderson, Krebs No. 8, Carbon Bache, Dow, Craig, per ton for mine run coal 77½

Lehigh, for screened coal 90

Bolen-Darnall, McAlester mines, per ton, hand picked coal 1 00

Samples, McAlester mines, per ton, hand picked coal 1 00

The mining price at Midway, Henryetta and Suter, the question of digging bottom, the price for loading after machines and the question of clod at the Bolen-Darnall and Samples mines, is referred to the district joint convention for adjustment.

All entry, yardage and deficient work shall be advanced 12½ per cent, and the same rules and customs now existing in District 21 shall be continued in force during the life of this agreeemnt.

The price of powder shall be $2 per keg.

Prices for Mining in Arkansas.

The price for mine run coal per ton shall be $ 62
1256 For screened coal, per ton 90

The operators are to have the option of paying on a screened coal or mine run basis. When the coal is mined on a screened coal basis the screens used shall be not more than six feet wide, have bars not more than sixteen feet long and a 1-1/8 inch space between the bars.

Ouita: For hand picked coal, free from slack, slate, sulphur, bony and black-jack, the price shall be as follows:

From the first of September to the first of March $ 1 22

From the first of March to the 31st of August.... $ 1 07

Spadra, for screened coal per ton, from the first of September to the first of March 1 02

From the first of March to the 31st of August.... 92

Russellville ten cents per ton less than the price paid at Ouita.

The mining rate for McCurtain is referred to the district joint convention.

Entry, yardage and deficient work will be advanced 12½ per cent. The same rules and customs defining deficient

work in District 21 shall be in force during the life of this agreement.

The price of powder shall be $2 per keg.

Inside Day Wage Scale.

	Track Layers	$ 2 56
	Track Layers' helpers	2 36
	Trappers	1 13
	Bottom cagers	2 56
	Drivers	2 56
	Trip drivers	2 56
	Pushers	2 56
1257	Water haulers and machine haulers	2 56
	Timbermen where such are employed	2 56
	Pipe men for compressed air plants	2 50
	Company men in long wall mines	2 36
	All other inside day labor	2 36
	Spragging, coupling and greasing, when done by boys	1 75
	Shot firers under normal conditions	3 00

Outside Day Wage Scale.

First blacksmiths	$ 3 00
Second blacksmiths	2 75
Blacksmiths' helpers	2 36
Carpenters	2 43

(Provided, that in no case will there be any reduction from the rate of wages now paid to carpenters.)

All other outside day labor ..... $ 2 02½

Provided, that any class of outside day labor now receiving $2.00 or more per day shall be advanced 12½ per cent. This provision only applies to outside labor not otherwise enumerated.

Scale for Engineers.

Engineers, first class, 500 tons and over, per month	$79 00
Second class, 300 to 500 tons per month	73 00
Third class, 300 tons or less, per month	65 00

Tail rope and slope engineers, 12½ per cent above present wages.

The minimum rate for tail rope and slope engineers shall be $2.38 per day, or $62.00 per month; provided, further that the maximum rate for tail rope and slope engineers

shall be $2.70 per day or $70.00 per month. Twenty-
1258 six days to constitute a month's work and nine hours to constitute a day's work. All over-time in excess of nine hours to be paid for at a proportionate rate per hour.

The tonnage shall be determined by the average for the month of November, 1902, and based upon mine run coal; but in no case shall any reduction from present wages be made.

This scale of wages applies only to mines in operation at least one year, and in all new mines the wages of the engineers shall be advanced with the increased tonnage until the maximum rate is reached; provided, that in no case shall engineers employed at new mines receive less than $2.38 per day; also that in no case shall engineers, firemen or pumpers be interfered with or asked to cease work by any local committee or local union official during the life of this contract.

The mining prices inside and outside day wage scale (except engineers) provided for in this contract is based upon an eight-hour work day.

Rules and Regulations.

Eight Hour Day.

All classes of day labor are to work full eight hours, and the going to and coming from the respective working places is to be done on the day hands' own time. All company men shall perform whatever day labor the foreman may direct. An eight-hour day means eight hours' work in the mines at the usual working places, exclusive of noon time—which shall be one-half hour—for all classes of inside day labor. This shall be exclusive of the time required in reaching such working places in the morning and departing from the same at night.

Drivers shall take their mules to and from the stables,
and the time required in so doing shall not include
1259 any part of the day's labor; their time beginning when they reach the change at which they receive empty cars—that is, the parting drivers at the shaft bottom and the inside drivers at the parting—and ending at the same places; but in no case shall a driver's time be docked while he is waiting for such cars at the points named. The inside drivers, at their option, may either walk to and from their parting or take with them, without compensation, either loaded or empty cars to enable them to ride. This

provision, however, shall not prevent the inside drivers from bringing to and taking from the bottom regular trips, if so directed by the operator, provided such work is done within the eight hours.

When the stables are located outside the mine the companies agree to deliver the mules at the bottom of the shaft in the morning and relieve the drivers of the mules at the bottom of the shaft at night.

When the men go into the mine in the morning they shall be entitled to two hours' pay whether or not the mine works full two hours; but after the first two hours the men shall be paid for every hour thereafter, by the hour, for each hour's work or fractional part thereof. If, for any reason, the regular work cannot be furnished the inside day laborers for a portion of the first two hours, the operators shall furnish other than the regular labor for the unexpired time.

Penalties for Loading Impurities.

In order to insure the production of clean, marketable coal, it is herein provided that if any miner shall load with his coal, sulphur, bone, slate, blackjack or other impurities, he shall, for the first offense, be notified by the mine foreman; for the second offense he may be suspended for
1260 one day; for the third and each subsequent offense concurring in any one month he may be suspended for three days; provided that if in any case, it is shown that a miner maliciously or knowingly loads impurities, he shall be subject to discharge. It is further agreed that if any miner has been suspended and claims that an injustice has been done him, the matter shall be taken up for investigation and adjustment in the manner provided in Section Three of this Agreement.

Duties of Pit Committee

(a) The duties of the pit committee shall be confined to the adjustment of disputes between the pit boss and any member of the U. M. W. of A. working in and around the mines, arising out of this agreement or any District or Sub-District agreement made in connection therewith, when the pit boss and said miner or mine laborer have failed to agree.

(b) In case of any local trouble arising in any mine through such failure to agree between the pit boss and any miner or mine laborer, the pit committee and the pit boss are empowered to adjust it, and in the case of their disagreement it shall be referred to the superintendent of the company and

the district president of the U. M. W. of A., or such person as he may designate to represent him; and should they fail to agree it shall be referred to the commissioner of the Southwestern Interstate Coal Operators' Association and the district president of the U. M. W. of A. for adjustment; and in all cases the mines, miners, mine laborers and parties involved must continue at work pending an investigation and adjustment, until a final decision is reached in the manner above set forth.

(c) If any day men refuse to continue at work because of a grievance which has or has not been taken up for ad-
1261 justment in the manner provided herein, and such action shall seem likely to impede the operation of the mine, the pit committee shall immediately furnish a man or men to take such vacant place or places at the scale rate, in order that the mine may continue at work; and it shall be the duty of any member or members of the United Mine Workers who may be called upon by the pit boss or pit committee to immediately take the place or places assigned to him or them in pursuance hereof.

(d) The pit committee, in the discharge of its duties, shall under no circumstances go around the mine for any cause whatever, unless called upon by the pit boss or by a miner or company man who may have a grievance that he cannot settle with the boss. Any pit committeeman who shall attempt to execute any local rule or proceeding in conflict with any provision of this contract, or any other made in pursuant hereof, shall be forthwith deposed as committeeman. The foregoing shall not be construed to prohibit the pit committee from looking after the matter of membership dues and initiations in any proper manner.

(e) Members of the pit committee employed as day men shall not leave their places of duty during working hours except by permission of the operator, or in cases involving the stoppage of the mine.

(f) The right to hire and discharge, the management of the mine and the direction of the working force are vested exclusively in the operator, and the U. M. W. of A. shall not abridge this right. It is not the intention of this provision to encourage the discharge of the employes or the refusal of employment to applicants because of personal prejudice or activity in matters affecting the U. M. W. of A. If any employe shall be discharged or suspended by the company, and
1262 it is claimed that an injustice has been done him, an investigation, to be conducted by the parties and in the

manner set forth in paragraphs "a" and "b" of this section shall be taken up promptly and if it is proven that an injustice has been done, the operator shall re-instate said employe and pay him full compensation for the time he has been suspended and out of employment; provided, if no decision shall be rendered within five days the case shall be considered closed, inso-far as compensation is concerned, unless said failure to arrive at a decision within five days is owing to delay upon the part of the operator, in which case a maximum of ten days' compensation shall be paid.

Local Demands.

There shall be no demands made locally by either operators or miners which are in conflict with this agreement, or any District or Sub-District agreement made prior to September 1, 1903; and there shall be no provisions imposed for violating the same. Any local member, official or committee shutting down a mine without orders from the district president or district executive board shall be fined in the manner provided for in the national constitution of the U. M. W. of A., and such additional penalties may be imposed as are now or may be provided for in the constitutions of the various district organizations. All such fines are to be collected by the companies and paid into the district treasury of the U. M. W. of A. Should any operator violate this agreement, or any provision hereof, such operator or company shall be fined one hundred dollars ($100), said fine to be paid into the treasury of the Southwestern Interstate Coal Operators' Association.

Payment of Wages.

The operators agree to pay twice a month, the dates of
1263 payment to be determined by the district joint conventions; and these payments are to be made at the office nearest to the mine wherein or at which the employees are employed; provided, however, that this office shall be located not more than two miles from such mine.

Check Off.

The operators will recognize the pit committee in the discharge of their duties, as provided in this agreement, and agree to check off dues, assessments, fines and initiations from all miners and mine laborers when desired. In order to protect the companies, the U. M. W. of A. agrees, when the companies so demand, to furnish a collective and continuous order authorizing the companies to make such deductions. The companies agree to furnish the miners' local representatives a monthly statement showing separately the amount of dues,

assessments, fines and initiations collected. In case any fine is imposed the propriety of which is questioned, the amount of such fine shall be withheld by the operators until the case has been taken up for adjustment and a decision reached.

It is agreed that the miners may employ a check-weighman to see that coal is properly weighed and a correct record made thereof, and when such check-weighman is employed the companies shall furnish him a check number, and he shall credit to his number such portion of each miner's coal as he may be authorized to do by the local union. It is understood that the above provision shall not affect the arrangements now existing at any mine where a check number is issued in the name of the local union, and dues, assessments, fines and initiations collected by this method.

Measurements.

1264 It is agreed that the measurements of entries, brushing, room turning and dead work shall be made semi-monthly, and payment in full shall be made for such work in the same manner as that in which other work is paid for.

Equal Turns.

The operators shall see that an equal turn is offered each miner and that he be given a fair chance to obtain the same. The check weighman shall keep a turn-bulletin for the turn-keeper's guidance. The drivers shall be subject to whomever the mine manager shall designate as turn-keeper in pursuance hereof.

Deaths and Funerals.

In the event of an instantaneous death by accident in the mine, the miners and underground employes shall have the privilege of discontinuing work for the remainder of that day; but work, at the option of the operator, shall be resumed the day following and continue thereafter. In case the operator elects to operate the mine on the day of the funeral of the deceased, as above, or where death has resulted from an accident in the mine, individual miners and underground employes may, at their option, absent themselves from work for the purpose of attending such funeral, but not otherwise. And whether attending such funeral or not, each member of the U. M. W. of A. employed at the mine at which the deceased member was employed, shall contribute fifty (50) cents and the operator twenty-five ($25) dollars for the benefit of the family of the deceased or his legal representatives, to be collected through the office of the company. In the event that the mines are thrown idle on account of the miners' or other

employes' failure to report for work in the time intervening between the time of the accident and the funeral, or on the day of the funeral, then the company shall not be called
1265 upon for the payment of the twenty-five ($25) dollars above referred to.

Except in cases of fatal accidents, as above, the mine shall in no case be thrown idle because of any death or funeral; but in the case of the death of any employe of the company or member of his family, any individual miner may, at his option, absent himself from work for the purpose of attending such funeral, but not otherwise.

Doctor.

No deductions shall be made for doctors unless such deduction is authorized by the individual employe.

Condition of the Mine.

The company shall keep the mine in as dry condition as practicable, by keeping the water off the road and out of the working places. When a miner has to leave his working place on account of water, through the neglect of the company, they shall employ said miner doing company work when practicable and provided that said miner is competent to do such work, or he will be given another working place until such water is taken out of his place.

Provisions for Injured.

The operators shall keep sufficient blankets, oil, bandages, ets., and provide suitable ambulance or conveyance, readily available at each mine to properly convey injured persons to their homes after an accident.

1904 Joint Convention.

It is agreed that the Southwestern Interstate Coal Operators' Association and the representatives of the United Mine Workers of America shall meet in the city of Pittsburg, Kansas, on the Second Monday in July, 1904, at nine o'clock a. m., for the purpose of formulating a scale of wages to gov-
1266 ern Districts 14, 21 and 25 for the year ending September 1, 1905.

In behalf of the Operators:

B. F. BUSH, President.
S. W. KNIFFIN, Secretary.
Southwestern Interstate Coal Operators' Association.

Kansas:

A. B. Kirkwood, Charles J. Devlin.

Indian Territory:

J. C. Reid, A. K. Craig.

Arkansas:

F. Bache, Bennett Brown.

Missouri:

B. T. Wiley, Peter McCall.

In Behalf of the Miners:

John Mitchell, President United Mine Workers of America.

Kansas:

George Richardson, Ralph Deacon.

Indian Territory:

Peter Hanraty, Pete Stewart.

Arkansas:

Pete Stewart, S. F. Brackney.

Missouri:

George Colville, George Manuel.

Robert Gilmour,
Secretary Joint Convention.

Scale District No. 1 of 21.

In rooms, room necks and cross cuts at Midway the prices shall be eighty cents per ton mine run coal. Coal mined at entries and air courses, the price shall be seventy-four
1267 cents per ton mine run. The price per ton at Midway shall cover all bottom taken up and the removal of top bony.

All yardage, entry and dead work at Midway, also the inside and outside day wage scale, to be advanced as per Pittsburg Agreement.

For taking up bottom at the Colgate Company's mine, the following prices shall be paid: Where prevailing height is required, seven cents per inch for each inch when coal is less than four feet in thickness. This does not include all bottom, but only that representing the difference between the actual thickness of the coal and four feet.

The price for yardage and dead work at No. 7 Krebs, shall be as follows:

Where coal is three feet eight inches and under, same rates will be paid as No. 8 Krebs. Where coal is over three feet eight inches, same price will be paid as at No. 11 Krebs.

The price of mining low vein coal at Turkey Creek shall be $1.00 per ton mine run. The condition relating to mining coal at present to remain unchanged.

Prices on yardage and dead work advanced 12½ per cent. Room cross cuts will be paid the same as air courses where they are cut.

Scale of prices on cross-bars, dirt and deficient narrow work in room necks at the mines on Atoka track, excepting Midway.

Setting cross-bars thirty-three cents, eight foot bar. Loading dirt in cars, twenty-seven cents per car. Air course yardage in rooms turned off the entry where top will not allow widening out. Where bottom is required to be taken up, entry prices shall be paid. One-half room turning price to be paid for widening out. Measurements to begin at en-
1268 try and end at widening out.

Prices on clod at Bolen-Darnall and Samples' mines:

From September 1st to October 1st the price shall be five cents per inch for all clod coming over the coal.

During the month of October the superintendent and pit committee shall take the average thickness of the clod. The price to be paid per inch shall be based on the average at ten cents per inch for clod over four inches in thickness.

The superintendent and mine committee shall, on the 1st of October, determine what day in the month averages shall be taken.

The decision of superintendent and mine committee shall be final and binding for the year. This applies to clod coming from top of coal only.

All break-through in the Indian Territory shall be driven from six to eight feet wide, and paid for at the rate of $1.60 per yard, plus 12½ per cent. Measurement to be made from lower rib.

The prices now in force at Wilburton to be advanced 12½ per cent. The question of prevailing prices to be left to pit committee and J. C. Reid and his associates; in the event they cannot agree, to be determined in accordance with the general resolutions of the Pittsburg Convention.

The price of soda powder at Krebs shall be $2.00 per keg.

All coal in the Indian Territory under two feet ten inches on the 77½ cent rate be declared deficient.

At Witteville the price for entry shall be $2.70 per yard, brushing included; for air course $1.90 per yard.

All coal under four feet in height in the Indian Territory where bottom brushing has not been paid for in rooms it shall be paid for at 2¼ cents per inch yer yard to make the
1269 required height; and in Arkansas the same price and prevailing conditions shall apply to digging bottom in rooms. This shall not apply to mines of Dallas Coal Company nor to Central Coal & Coke Company mines at Hartford. This question at Central Coal and Coke Company mines at Hartford is left to the commissioner of the operators' association and the President of District 21, they to select a third party if they cannot agree.

The question of the price for long wall mining at Henryetta, Indian Territory, deferred for not more than seventy days, the miners for that period to be made up to a day wage scale to be agreed upon by the Joint Conference.

It is agreed that the miners employed in the Central Coal & Coke Company's long wall mines at Henryetta shall receive ninety-five cents per ton for clean mine run coal until November 16th, 1903, at which time Operators' Commissioner and District President shall determine the price to be paid.

Scale District No. 2 of 21

Paris

For mining hand picked or forked coal free from slate, slack and other impurities, $1.05 per ton shall be paid.

Where draw slate or cock comes in with coal the following prices shall be adopted:

For all over one inch and under five inches, five cents per ton extra; over five inches and less than ten inches, ten cents per ton extra; over ten inches and less than fifteen inches, fifteen cents per ton extra; over fiften inches and less than twenty inches, twenty cents per ton extra. The remainder of the scale to be governed by the Pittsburg Agreement.

Sutter And Witteville No. 4.

The mining price at Sutter, Indian Territory, and
1270 Mine No. 4, Witteville, shall be ninty-five cents per ton for coal screened over the standard diamond top screen of following dimensions: Width, six feet; length, twelve feet;

space between bars to be 1⅛ inch. Room turning to be $5.-62½.

All entry, yardage and dead work to be increased 12½ per cent over existing prices.

All refuse matter thrown into gob shall not be loaded unless the same shall be paid for. Rate of payment on such work to be agreed on by the company's representative and the pit committee. All coal shall be loaded the same as run mine coal in the Pittsburg Agreement, namely every precaution shall be used to prevent the loading of dirt. The rule adopted by the Pittsburg Conference for the loading of impurities shall not apply to Sutter and Witteville No. 4 to impurities passed through the screen but to impurities passed over the screen, except where a miner does not use due caution or maliciously loads impurities.

The brushing price at Bonanza, Jenny Lind, Coal Hill and Denning shall be $1.40 for eighteen inches of bushing. This includes 12½ per cent granted in the Pittsburg Agreement. Where the company requires more than eighteen inches to be bushed, they agree to pay eight cents per inch for each additional inch over the eighteen inches.

Draw slate in air courses will be paid as follows: For three inches or over, twenty-five cents. For six inches or over, fifty cents. For nine inches or over, seventy-five cents. For twelve inches or over, one dollar per yard. All coal in Arkansas two feet ten inches and less in height shall be considered deficient work, except where special price
1271 has been made.

Scale of prices to be paid for draw slate and rock at Bacje & Denman's mines at Burma and Montreal No. 2:

Over four inches and up to eight inches, 56 cents per yard. Over eight inches and up to 12 inches, 84 cents per yard. Over twelve inches to be settled locally. Bushing entries to be $1.41 per yard.

Where bottom is taken up in rooms and room necks shall be paid fifty-six cents per yard. This applies to Bacl & Denman's mines at Burma only.

Question of prices of bushing at Dallas mines referred to District President and Commissioner of Operators' association, or two men whom they may select.

All break-throughs in Arkansas, when required to through, to be paid at the present rate, plus 12½ per cent.

Howe, Indian Territory, shall be included in Scale District No. 2.

McCurtain shall be included in Scale District No. 2.

Pick mining at McCurtain:

Mine No. 2: Company to pay Arkansas mine run price until it installs standard Arkansas screen, when there may be a test run to determine proportion of lump as compared to Average Arkansas coal. Test shall be run the first twenty-one days after company goes on lump coals basis, under conditions prescribed by commissioner representing operator and president of District 21 representing the miners. These two, if unable to agree on result may call in a third party, the decision of any two to be final. The company, after such test, remain on lump basis at the rate so agreed upon. While running on mine run basis any miner persisting in making an unreasonable amount of slack under conditions prevailing at Mine No. 2, after being cautioned by pit boss
1272 may be discharged.

Mine No. 3. Arkansas scale with waiver of right to lump coal basis until development shall have sufficiently progressed to show characteristics of coal to be equal to average Arkansas coal. This determination to be made by Commissioner representing operator and President of District 21 representing miners, and to be settled by calling in third party in event of disagreement.

Company may work on yardage basis during development.

The prices for yardage at Mine No. 2 and mine No. 3 shall be as follows:

Entries	$2.25	per yard
Air courses	2.25	" "
Cross cuts	1.68¾	" "
Room turning	3.37½	" "

The Pittsburg Agreement shall cover all entry room turning and deficient work at Russellville, and the company shall pay 90 cents per yard for first class cut in rooms for actual measurement.

Day Wage Scale

The fire boss shall receive $3.03¾ per day and shall be subject to discharge by the management of the mine without appeal; if competent shall be given other work.

The fire runner shall receive not less than $2.56 where such is employed.

Auxiliary electric hoist operators:

	For boys	$2.00 per day
	Electric slope engineers	2.56 " "
	Motormen	2.56 " "
	Pump men	2.56 " "
1273	Head machinist	3.10 per day
	Machinist	2.75 " "

"Boys" means those of maximum age of nineteen years. Day wages for digging coal, $2.81¼

Machine Scale For Indian Territory.

Loaders for chain machines are to receive forty-five cents per ton in all classes of working places.

Runners are to receive 5 cents per ton.

Helpers are to receive 4¼ cents per ton.

Or runners are to receive $3.00 per day and helpers $2.75 per day, at the option of the company.

Loaders are to do all work now done by pick miners except cutting of coal; this includes taking up of the same amount of bottom under same conditions as applies to pick miners and furnish their own powder.

Day wage scale for loading after chain machines shall be $2.56. No loader will be employed on day wage scale where it is practicable to employ them on tonnage rate.

McCurtain Punching Machine Scale.

Cutting in rooms and room brake-throughs shall be 12½ cents per ton mine run, to be divided three-fifths to [cutt] and two-fifths to helper.

Cutting in entries and all other narrow work except room brake-throughs shall be sixteen and one-half cents divided three-fifths and two-fifths as above. No yardage.

Loaders in rooms (including break-throughs) shall receive forty cents per ton mine run; loaders to furnish powder and do all work ordinarily done by pick miners in rooms, except cutting.

Loaders in entries and all other narrow work (except room brake-throughs) shall receive forty-five cents per ton.
1274 No yardage. Loaders to furnish powder and do all work ordinarily done by pick miners in entry work except cutting.

General Conditions.

There shall be two pay days a month and the operators shall issue to each employe a statement of his account, which the employe may retain. The dates of pay days shall be arranged between the respective companies and their employes.

Where air courses are driven in chute or platform work, that is, where the coal is in a greater pitch than twenty degrees, shall be considered as air course, and it shall be paid for at the regular district price, provided such air course or brake-though is cut or sheared before being shot.

The company shall put in all batteries, wiring boards and platforms in all chute work in District No. 21.

The miners shall load their own coal in pitching veins in this district at the regular scale price.

No person employed under ground shall use an inferior grade of lard oil and the use of any other except lard oil is prohibited. Rope riders in mine slopes are excepted.

The taking up of bottom for stub switches for chute rooms will be a one by the miner and payment for same is referred to Local Union and mine officials for adjustment. In the event of their failure to agree, general resolutions to govern.

Where coal is screened before being weighed it shall be dumped on flat sheets and passed over the screen specified in the Pittsburg Agreement, and there shall be no obstruction on said screen.

When an employe leaves the employment of a company he shall receive all money due him within three days from the date of notice. Settlements must be asked for between the hours of 8 a. m., and 6 p. m., on day settlement is
1275 due.

All company men shall receive an equal share of all work when competent to do such work.

The gas men shall place marks at last inside break-throughs, showing clearly whether there is any standing gas in working place. Should there be standing gas, he shall place gas mark at room neck in addition to mark at inside brake-through; but should working place be clear, he shall place marks so indicating this at coal face. No miner shall be permitted to brush out gas.

Miners shall have the right to send out their dull tools on top of loaded cars and the company shall deliver same to blacksmith shop for sharpening, and no man be allowed to carry tools up or down shaft. In slopes the company shall deliver the same to parting or bottom. The company shall not be responsible for tools.

Any under ground employe not on hand to go down to work at the hour for commencing work, shall not be entitled to go below except at convenience of the company.

When an employe is sick or injured he shall be given a cage at once. When a cage load of men come to the bottom of the shaft who have been prevented from working by reason of falls or other things over which they have no control, they shall be given a cage at once. For the accommodation of individual employes less than a cage load who have been prevented from working as above, cage will be run mid-forenoon, noon and mid-afternoon of each working day. Provided, however, that the foregoing shall not be permitted to enable men to leave their work for other than the reasons stated above.

1276 The sinking of slopes and driving narrow work through faults shall be left to Local Unions and mine management for adjustment.

All double-shift places to be paid twenty-eight cents per yard extra.

All wet entries, rooms, slopes, slope air courses and all other work connected with the slopes shall be left to Local Union and superintendent or manager for agreement of price.

Frozen or seamy coal, stuck top or bottom, shall be deficient work, and shall be paid for extra, the same to be determined by mine committee and pit boss. If they fail to agree the miner shall be given an average place in the mine.

There shall be no deduction for school purposes except authorized by the individuals.

For the health and safety of the miner's lives, air courses shall be kept up with the entries as near as possible, and crosscuts shall be driven every forty feet; where gas exists, they shall be driven every thirty feet. No room shall be turned inside the last cross cut.

Scale price for blacksmithing miners' tools and machine mine tools:

Three-fourths of one per cent on gross earnings for blacksmithing of miners' tools, and three eigths of one per cent on gross earnings for machine coal loader's tools.

All sharpening and repairs of tools shall be done as promptly as possible.

The District President of the United Mine Workers of America the Commissioner of Southwestern Operators Association and the State Mine Inspector shall be a committee of three to determine at what places shot firers shall be employed in Arkansas.

The present conditions in regard to double and single work shall prevail.

1277 Any employe absenting himself from work two days and not reporting for work on the morning of the third day shall forfeit his right to his working place, unless excused by mine foreman, but shall be given another place on turn; provided, however, this shall not apply in case of sickness.

Where a fall occurs in any working place the company shall make preparation to clean up same within four hours from time of notice; failing to do so the miner or miners affected shall clean up same, company paying at the rate of $2.56 per shift.

Price for moving all draw slate and rock exceeding two inches in thickness, two and one-half cents per inch per running yard for each five feet in width, and all over and above to be paid accordingly. This applies to all mines except where there is a special contract.

Where rooms are driven up narrow on acount of bad top, the yardage shall be same as that in air courses, measurements to be made from the entry; and when room is widened out one-half room turning shall be paid. Where bottom is taken up entry yardage shall be paid. This does not apply in rooms that have been widened out, then narrowed up and re-necked, but in these cases the prices now in effect shall prevail plus 12½ per cent.

When a car leaves working place it is in charge of the company and average weight shall be paid for broken cars. Such cars shall be reported by the man that dumps the coal. The Company shall keep all cars in good repair.

All coal four feet and over where it comes down to under a thickness of three feet four inches shall be declared deficient work. This applies to Arkansas and the Indian Territory.

Where cars are delivered at working face all timber and rails shall be delivered there.

1278 Where powder is taken into the mine in kegs it shall be delivered to the working place; otherwise it shall be handled according to the methods in vogue at the various mines.

Where miners at Coal Hill, No. 18 Jenny Lind, and Denning, Arkansas, have been pushing cars both ways the company shall assist the miner one way when necessary; and all miners in the Indian Territory who have been pushing their cars both ways shall receive for all coal pushed over 200 feet five cents per ton extra. The conditions that prevail at Lehigh apply to all mines on the Atoka Track in regard to lowering cars down to the switch.

All questions that have been left to the President of the United Mine Workers of America, District 21, and Commissioner of the Operators' Association, or to arbitration shall become a part of this contract and be binding upon both parties when the same have both been decided and agreed upon by the said President and Commissioner, or by arbitration; and the operators shall furnish the District Secretary of the U. M. W. of A., and also post at the mines the prices to be paid on and after September 1, 1903, based hereon.

Color Shall Be No Bar To Employment

For Operators

Franklin, Bache, Chairman,
Bennet Brown, Commissioner,
John S. Cameron,
J. C. Reid, Sec'y, Scale Comm.

For Miners

Peter Hanraty, President,
Charles Brown,
John Morgan,
Gilbert Brown,
S. F. Brackney, Secretary.

1279 The Court: At this point we will adjourn for the noon hour. Can we not encroach on the noon hour fifteen or twenty minues? Wouldn't that leave a sufficient recess at noon? I would rather do that than come earlier. The idea is to get a little more time in if we can without working any hardship to anyone. However, we will not try that today.

At this point an adjournment was taken for the noon recess until 2:00 o'clock.